of Florida, Mr. MCCOLLISTER, Mr. SEBELIUS, Mr. SCHERLE, Mr. GROSS, Mr. SANDMAN, Mr. CRANE, Mr. ROUSSELOT, Mr. EDWARDS of Alabama, and Mr. CLEVELAND):

H.J. Res. 329. Joint resolution proposing an amendment to the Constitution to permit the imposition and carrying out of the death penalty in certain cases; to the Committee on the Judiciary.

By Mr. ZWACH:

H.J. Res. 330. Joint resolution to provide for the designation of the week of February 11 to 17, 1973, as National Vocational Education Week; to the Committee on the Judiciary.

By Mr. NIX:

H. Con. Res. 111. Concurrent resolution expressing the sense of the Congress that the Soviet Union should be condemned for its policy of demanding a ransom from educated Jews who want to emigrate to Israel; to the Committee on Foreign Affairs.

H. Con. Res. 112. Concurrent resolution requesting the President of the United States to take affirmative action to persuade the Soviet Union to revise its official policies concerning the rights of Soviet Jewry; to the Committee on Foreign Affairs.

By Mr. O'NEILL:

H. Con. Res. 113. Concurrent resolution to express a national policy of support for the New England fishing industry, and the domestic coastal fishing industry in all parts of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. WOLFF (for himself, Mr. ADDABBO, Mr. CAREY of New York, Mr. RONCALLO of New York, Mr. BIAGGI, Mr. PIKE, Mr. BUCHANAN, Mr. DAVIS of South Carolina, Mr. HELSTOSKI, Mr. EILBERG, Mr. BRASCO, Mr. STEPHENS, Mr. PEYSER, Mr. FASCELL, Mr. ROE, Mr. MAZZOLI, Mr. RODINO, Mr. MOAKLEY, Mr. RINALDO, Mr. LEGGETT, Mr. CORMAN, and Mr. DANIELSON):

H. Con. Res. 114. Concurrent resolution providing recognition for Columbus; to the Committee on House Administration.

By Mr. BIESTER (for himself and Mr. STEELMAN):

H. Res. 198. Resolution for the creation of congressional senior citizen internships; to the Committee on House Administration.

By Mr. CLEVELAND:

H. Res. 199. Resolution to amend rule XI of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. DIGGS:

H. Res. 200. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 162; to the Committee on House Administration.

By Mr. FLOOD (for himself, Mr. ADDABBO, Mr. BROYHILL of Virginia, Mr. BURLESON of Texas, Mr. DEL CLAWSON, Mr. CLARK, Mr. GAYDOS, Mr. HENDERSON, Mr. JOHNSON of Pennsylvania, Mr. MATHIS of Georgia, Mr. MCCOLLISTER, Mr. ROBINSON of Virginia, Mr. RUNNELS, Mr. SATTERFIELD, and Mr. WAGGONNER):

H. Res. 201. Resolution to declare U.S. sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. KLUCZYNSKI:

H. Res. 202. Resolution to provide funds for expenses incurred by the Select Committee on the House Restaurant; to the Committee on House Administration.

By Mr. NIX:

H. Res. 203. Resolution concerning the continued injustices suffered by Jewish citizens of the Soviet Union; to the Committee on Foreign Affairs.

By Mr. O'HARA:

H. Res. 204. Resolution to disapprove certain regulations submitted to the House by the Commissioner of Education in accordance with section 411 of the Higher Education Act of 1965, as amended, relating to the family contribution schedule under the basic educational opportunity grant program; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. WALDIE, Mr. BRASCO, Mr. MANN, Mr. MURPHY of Illinois, Mr. RANGEL, Mr. WINN, and Mr. SANDMAN):

H. Res. 205. Resolution creating a select committee to investigate all aspects of crime affecting the United States; to the Committee on Rules.

By Mr. TEAGUE of Texas:

H. Res. 206. Resolution maintaining U.S. sovereignty, Panama Canal Zone; to the Committee on Foreign Affairs.

H. Res. 207. Resolution to instruct the Judiciary Committee to make a continuing study of the fitness of Federal judges for their offices; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

27. By the SPEAKER: A memorial of the Legislature of the State of Idaho, relative to allowing private citizens of the United States to own gold; to the Committee on Banking and Currency.

28. Also, a memorial of the Legislature of the State of Maine, relative to the proposed closing of the National Marine Fisheries Services facility at Boothbay Harbor, Maine; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON:

H.R. 4168. A bill for the relief of Poo Mun Lee; to the Committee on the Judiciary.

H.R. 4169. A bill for the relief of Mamerta Musngi Pennington; to the Committee on the Judiciary.

H.R. 4170. A bill for the relief of Florencia T. Santos; to the Committee on the Judiciary.

H.R. 4171. A bill for the relief of Kwong Lam Yuen; to the Committee on the Judiciary.

H.R. 4172. A bill for the relief of Romeo Lancin; to the Committee on the Judiciary.

By Mr. BRASCO:

H.R. 4173. A bill for the relief of Alfredo Giuliani; to the Committee on the Judiciary.

By Mrs. CHISHOLM:

H.R. 4174. A bill for the relief of Ronald V. Johnson; to the Committee on the Judiciary.

By Mr. CLEVELAND:

H.R. 4175. A bill for the relief of Manuel H. Silva; to the Committee on the Judiciary.

By Mrs. GREEN of Oregon:

H.R. 4176. A bill to incorporate in the District of Columbia the American Ex-Prisoners of War; to the Committee on the District of Columbia.

By Mr. GROVER:

H.R. 4177. A bill for the relief of Sp5. Gary Hegel; to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 4178. A bill for the relief of Concetta Fruscella; to the Committee on the Judiciary.

By Mr. MOSS:

H.R. 4179. A bill for the relief of Louis M. Lamothe; to the Committee on the Judiciary.

H.R. 4180. A bill for the relief of Milton E. Nix; to the Committee on the Judiciary.

By Mr. NIX:

H.R. 4181. A bill for the relief of Francesco Sita; to the Committee on the Judiciary.

SENATE—*Wednesday, February 7, 1973*

The Senate met at 12 o'clock meridian and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

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

O God, our Father, in whom we live and move and have our being, help us through this day so to live that we may bring help to others, credit to ourselves, and honor to the Nation and to Thy name.

Enable us, by Thy spirit, to be helpful to those in difficulty, kind to those in need, sympathetic to those whose hearts are sad. Grant that we may be cheerful when things go wrong, persevering when things are difficult, serene when things are irritating. Make us to be at peace with ourselves, with others, and with Thee.

Grant us Thy grace to live under the inspiration and strength of the Master of Life, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 7, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR. thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on February 2, 1973, the President had approved and signed the joint resolution (S.J. Res. 26) to amend section 1319 of the Housing and Urban Development Act of 1968 to increase the limitation on the face amount of flood insurance coverage authorized to be outstanding.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HARRY F. BYRD, JR.) 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 the Senate proceedings.)

ENROLLED JOINT RESOLUTION SIGNED

The enrolled 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 which had previously been signed by the Speaker of the House was signed today by the Acting President pro tempore (Mr. HARRY F. BYRD, JR.).

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a joint resolution (H.J. Res. 299) relating to the date for the submission of the report of the Joint Economic Committee on the President's economic report, in which it requested the concurrence of the Senate.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 6, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

CONGRESSIONAL CONSIDERATION OF PROPOSED RULES OF EVIDENCE FOR FEDERAL COURTS AND MAGISTRATES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 22, S. 583.

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

The assistant legislative clerk read as follows:

S. 583, to promote the separation of constitutional powers by securing to the Congress additional time in which to consider the Rules of Evidence for United States Courts and Magistrates, the Amendments to the Federal Rules of Civil Procedure, and the Amendments to the Federal Rules of Criminal Procedure which the Supreme Court on November 20, 1972, ordered the Chief Justice to transmit to the Congress.

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

There being no objection, the bill was considered ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 583

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

SECTION 1. Notwithstanding any other provisions of law, the Rules of Evidence for United States Courts and Magistrates, the Amendments to the Federal Rules of Civil Procedure, and the Amendments to the Federal Rules of Criminal Procedure, which are embraced by the order entered by the Supreme Court of the United States on Monday, November 20, 1972, shall have no force or effect prior to the adjournment sine die of the first session of the Ninety-third Congress except to the extent that they may be expressly approved by such Congress prior to such sine die adjournment.

SEC. 2. That all provisions of law inconsistent with the provisions of this Act are hereby repealed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–14), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of this bill is to secure to the Congress more time to consider the proposed rules of evidence for Federal courts and magistrates and the amendments to the Federal Rules of Civil Procedure and the amendments to the Federal Rules of Criminal Procedure which the Supreme Court, on November 20, 1972, ordered the Chief Justice to transmit to the Congress. Under the present enabling statutes, 18 U.S.C. sections 3402, 3771, 3772 and 28 U.S.C. sections 2072, 2073, Congress has but 90 days to consider rules submitted to it by the Supreme Court.[1] The proposed rules of evidence are a product of several years of study by a committee of eminent scholars and lawyers. The Congress needs more than 90 days to consider fairly such a great undertaking which will have a major effect on our system of justice.

EFFECT OF THE BILL

The bill which is offered would allow the Congress to consider the proposed rules of evidence until adjournment of the first session of the 93d Congress sine die.

The proposed rules of evidence would not go into effect prior to adjournment sine die, unless expressly approved by the Congress prior to that time. If the Congress takes no action concerning the rules, prior to adjournment sine die, the rules will then go into effect at adjournment.

The only effect the bill which is offered would have on the present rules enabling statutes, 18 U.S.C. sections 3402, 3771, 3772 an 28 U.S.C. sections 2072, 2075, is to suspend their operation until sine die adjournment of the first session of the 93d Congress. The bill would not repeal the enabling statutes and would in no way affect the power of the Supreme Court to continue to promulgate rules of practice and procedure for Federal courts.

[1] It should be noted that the order of Nov. 20, 1972, sets the effective date of the rules of evidence as July 1, 1973.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Lewis A. Engman, of Michigan, to be a Federal Trade Commissioner.

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

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar, under Federal Trade Commission, will be stated.

FEDERAL TRADE COMMISSION

The second assistant legislative clerk read the nomination of Lewis A. Engman, of Michigan, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1969.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, may I now be recognized?

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

GUN CONTROL

Mr. MANSFIELD. Mr. President, in the past, I have endeavored to determine the Government's experience in using the mandatory sentencing sections of the gun crime laws, specifically under the 1970 provision I sponsored to the Omnibus Crime Control and Safe Streets Act dealing with stricter sentences against criminals who choose to carry weapons. Under that law stricter sentences are to be imposed against felons carrying firearms during the commission of Federal crimes. A separate and additional penalty would apply to the mere act of carrying a firearm—separate from and in addition to the underlying crime itself.

In the case of a second offender it is truly a mandatory sentence. For using or carrying a firearm during the commission of a crime the criminal must serve up to 25 years and that sentence cannot be suspended by the court nor can probation be granted nor can the sentence run concurrently with the sentence for the underlying crime.

It should be said that certain leeway was preserved in the case of first offenders. Its preservation lay not in the fact that first offenders who carry guns should be treated with any leniency. At the time that this provision was adopted, it was urged that the trial court deserved to retain leeway in the case of first of-

fenders essentially because of the deplorable state of this Nation's prisons. In short, penal institutions serve mainly as criminal breeding grounds. To confine a first offender in every case means that there is no hope of rehabilitation. By permitting courts to retain some discretion in sentencing first offenders there is provided an opportunity to mete out a penalty that is more likely to result in rehabilitation than is the case with compulsive imprisonment. To be sure, many first offenders deserve nothing short of prison. To safeguard society, they must be confined. But there are those who do deserve another chance. There are those for whom there is hope. And until these institutions are made capable of providing rehabilitation, a chance for some first offenders—not all—must be preserved. For a subsequent offender there is no chance. For him there is only prison.

This is not to say that by preserving in the trial court a degree of latitude, sentences stiffer than those imposed should not be sought. And as an added tool for the Nation's Federal prosecutors, I am preparing legislation that will give the prosecutor the right to have the trial court's sentence reviewed by the appellate court with a view to imposing an even stiffer sentence.

My bill, if adopted, will provide a sentence of from 5 to 10 years in the case of a first offender gun carrier.

In the case of subsequent offenders the sentence will run from 10 to 25 years and there will be no leeway granted, no probation, no suspension, and it will be served separately. In both cases, the sentence imposed may be appealed by the Federal prosecutor should a stiffer sentence be in order.

If and when this sentencing measure becomes law, I will seek to see that its use by the courts is closely monitored to the end that this Nation's gun criminal is put on notice once and for all that the use of firearms for crime will be tolerated no longer.

LEGISLATIVE PROGRAM

Mr. SCOTT of Pennsylvania. Mr. President, will the distinguished majority leader yield so that I may ask him a question?

Mr. MANSFIELD. Yes, indeed.

Mr. SCOTT of Pennsylvania. My question is, What is the order of business for the remainder of the week up to the recess?

Mr. MANSFIELD. Mr. President, we hope to dispose of the Ervin resolution today, with a little luck. Immediately following disposition of that resolution, we will then go into executive session to consider the nomination of Caspar Weinberger. I would hope it will be possible to dispose of both today and if we could, then we could leave on our Lincoln Day recess a day earlier.

If not, we will continue tomorrow and, if need be, dispose of both.

We will forgo that part of the Lincoln recess necessary to make sure that these two matters, the resolution and the nomination, are disposed of.

Mr. SCOTT of Pennsylvania. I thank the distinguished majority leader.

ORDER OF BUSINESS

Mr. SCOTT of Pennsylvania. Mr. President, I seek recognition on my own time now.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

THE PEACE IN VIETNAM

Mr. SCOTT of Pennsylvania. Mr. President, I shall ask to have printed in the RECORD at the conclusion of my remarks an article from the Washington Star-News of February 5 written by Richard Wilson entitled "Nixon Peace Hailed Abroad, Not at Home."

Mr. Wilson makes a number of pertinent points. He points out the frenetic language used prior to the cease-fire in which not only in public comment but also in comment by Members of Congress, a great many foolish, unwarranted, and extreme statements were made. There individuals indulged in tantrums, in their bias and in their ignorance. They made predictions which now seem to have reached the height of folly.

The distinguished Senator from Arizona (Mr. GOLDWATER) introduced specifically a number of these statements in the RECORD recently.

Mr. Wilson goes on to say that the tirade did not end with signatures on the peace agreement. He says:

> The house-bound on the weekend of the signing could not have failed to note the tone of the television comment on the proceedings in Paris, as if this were a day of national mourning and atonement for past and future failure. In all the commentary only that of Edwin Newman of NBC came through with anything like the balance and reason that the circumstances required. Is objectivity and impartiality such an illusive quality on the air that only this one man, Newman, can capture it?

He goes on to say:

> The peace now begins to promise to be a constructive act of long-range historical importance, as any reasonable person could easily deduce from the official statements of the Chinese government and the official comments of Chairman Leonid Brezhnev of the Soviet Union.

Then he points out very cogently the difference in this country between now and 12 years ago. At that time—

> The vast periphery of Asia from Japan through the Philippines, Indochina, the rest of Southeast Asia, and the great expanses of Indonesia up to the shores of Australia were under imminent threat of Communist pressure, expansion and intimidation.
>
> And today? No Sukarno in Indonesia. No Sihanouk in Cambodia. No imaginable pressure on Australia or Japan. No serious Communist insurgency in the Philippines. A relatively secure Thailand. A cease-fire in Vietnam, probably to be extended to Laos and Cambodia, and a limit to the North Vietnamese-based revolutionary movement to be "guaranteed" by China and Russia as well as the Western Powers.
>
> Merely the chance of sustaining such an improved position goes well beyond the emotional concept of "Peace with Honor."

Mr. President, I ask unanimous consent to have the entire article printed in the RECORD.

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

NIXON PEACE HAILED ABROAD, NOT AT HOME

(By Richard Wilson)

A note of recrimination has crept into President Nixon's attitude on the cool reception in some quarters to his successful negotiation of a Vietnam cease-fire—and no wonder.

When it is considered how much was being said by Nixon's insatiable critics before the cease fire and how little was said afterward in support of it, it can be understood that a normal man would feel miffed.

A review in the White House of some of the new ludicrously shortsighted pre-cease fire comment in unofficial and official quarters increases the ranklement, and perhaps the people at the White House should stop doing this.

But such phrases as "failure on a grand scale" . . . "war by tantrum" . . . "dishonorable strategy" . . . "morally outrageous and politically useless" . . . "maddened tyrant" . . . "shamed as a nation" . . . "senseless terror," these cannot be easily forgotten. Nor can the blurred vision of those using less fiery phrases, including some of Nixon's fair weather friends, be brushed aside as merely mistaken judgment. The tirade has been carried on too long against the precise acts over the years which Nixon believes created the conditions for a favorable peace.

Nor has the tirade ended with signatures on the agreement. The house-bound on the weekend of the signing could not have failed to note the tone of the television comment on the proceedings in Paris, as if this were a day of national mourning and atonement for past and future failure. In all the commentary only that of Edwin Newman of NBC came through with anything like the balance and reason that the circumstances required. Is objectivity and impartiality such an illusive quality on the air that only this one man, Newman, can capture it?

An ironic followup on the sour grapes tone of the American anti-war press is to be found in the press of London, where it would not be supposed that empathy with American aims in Vietnam would run to excess.

Yet, in unmitigated terms, the London Sunday Express hailed President Nixon! "His enemies sneer," said the Express, "That Mr. Nixon is 'ordinary' but this in fact is his greatest quality. He is ordinary in the sense that he seeks the substance rather than the shadow; that he is concerned not with cheap popularity but with promoting the real, mundane interest of his nation. The American people recognized this when they re-elected him overwhelmingly. And people far from the United States should give thanks every day that this plain and sensible man sits in the White House."

And, the London Daily Telegraph said: "Mr. Nixon has shown himself truly a great president in his conduct of the Vietnam war and of peace negotiations. . ." The Telegraph severely criticized Senator McGovern and said Nixon's victory "came straight from the mass of the American people, whom Mr. Nixon has led back to psychological and economic health after an attack of Vietnamitis that in less capable hands might have been fatal, who emphatically rejected wishy-washy left-liberalism at home and abroad. Europeans in particular should be grateful that Mr. Nixon is president for another four years. . ."

Peace with honor? Forget, for a moment, about honor. The peace now begins to promise to be a constructive act of long-range historical importance, as any reasonable person could easily deduce from the official statements of the Chinese government and the official comments of Chairman Leonid Brezhnev of the Soviet Union.

As for the practical elements involved, who can sensibly compare the conditions that now exist and may exist in the future, with those which did exist when the Vietnam undertaking began. Then, 12 years ago, the vast

periphery of Asia from Japan through the Philippines, Indochina, the rest of Southeast Asia, and the great expanses of Indonesia up to the shores of Australia were under imminent threat of Communist pressure, expansion and intimidation.

And today? No Sukarno in Indonesia. No Sihanouk in Cambodia. No imaginable pressure on Australia or Japan. No serious Communist insurgency in the Philippines. A relatively secure Thailand. A cease fire in Vietnam, probably to be extended to Laos and Cambodia, and a limit to the North Vietnam-based revolutionary movement to be "guaranteed" by China and Russia as well as the Western Powers.

Merely the chance of sustaining such an improved position goes well beyond the emotional concept of "Peace with Honor."

ORDER OF BUSINESS—INTRODUCTION OF JOINT RESOLUTIONS

The ACTING PRESIDENT pro tempore. Under the previous order, the senior Senator from Oregon (Mr. HATFIELD) is recognized for not to exceed 15 minutes.

(The remarks of Senator HATFIELD made at this point on the introduction of Senate Joint Resolution 54 and Senate Joint Resolution 55, dealing with the Selective Service System, are printed in the routine morning business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS—INTRODUCTION OF A BILL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kentucky (Mr. COOK) is to be recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished Senator from Kentucky (Mr. COOK) to ask that the order be vacated and that the name of the distinguished Senator from Arkansas (Mr. MCCLELLAN) be substituted therefor.

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

The Senator from Arkansas is recognized.

(The remarks Senator MCCLELLAN made at this point on the introduction of S. 800, the Victims of Crime Act of 1973, are printed in the Routine Morning Business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

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

EXTENSION OF DATE FOR SUBMISSION OF REPORT OF JOINT ECONOMIC COMMITTEE ON THE PRESIDENT'S ECONOMIC REPORT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House on House Joint Resolution 299 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The joint resolution (H.J. Res. 299) was read the first time by title, and, by unanimous consent, the second time at length, as follows:

H.J. RES. 299

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 1, Ninety-third Congress, is amended by striking out "March 10, 1973" and inserting in lieu thereof "April 1, 1973".

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to the consideration of the joint resolution (H.J. Res. 299).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business, the joint resolution (H.J. Res. 299) be temporarily set aside.

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

ORDER OF BUSINESS

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

Mr. GRIFFIN. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my time be vacated.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 3 minutes each.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF DATE FOR SUBMISSION OF REPORT OF JOINT ECONOMIC COMMITTEE ON THE PRESIDENT'S ECONOMIC REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of House Joint Resolution 299.

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

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 299) was read the third time and passed.

NAVY PURGES RANKS OF MISFITS AND MALCONTENTS

Mr. ROBERT C. BYRD. Mr. President, the regrettable racial disorders which recently occurred aboard our aircraft carriers *Kitty Hawk* and *Constellation*, together with recent troubles on other U.S. naval vessels, have brought us face-to-face with some hard facts as our all-volunteer defense force experiment begins.

Basically, these facts relate to the quality, and the qualifications, of those being recruited to serve in the Armed Forces of the United States. I am pleased to commend the Navy—and in particular Adm. Elmo Zumwalt, Jr., the Chief of Naval Operations—for the steps now being taken by the Navy to rid its ranks of unqualified and undesirable persons.

Mr. President, under no circumstances can this Nation ever afford to allow its armed services to become a place of last resort for the undermotivated, the uneducated, and the incompetent. On the contrary, now as never before, considering the ever-increasing sophistication of weaponry and equipment, and the necessity, from a dollars-and-cents standpoint, of keeping manpower as low as possible consistent with the needs of national security, the quality of manpower must be kept high.

I, therefore, find it reassuring to know that the Navy is now coming to grips with the problem, and that it is acting positively to restore the quality of the men in the U.S. naval service to the high level it had insisted upon until recent years.

It may have been considered laudable from some sociological point of view to relax qualifications in recent years in an effort to attract more so-called ghetto recruits. But in many cases it did neither the Navy nor the men recruited any good.

I was appalled to learn that 1 in 4 Navy recruits last year had only a mental level 4 in the Armed Forces qualifications tests—equivalent to a sixth-grade reading level—and that 1 in 6 had a police record.

A report from an investigating group of the House Armed Services Committee which went to San Diego to look into the *Kitty Hawk* and *Constellation* disciplinary problems and disorders concluded

that many of the rioters on the *Kitty Hawk* were "below average mental capacity." The investigators raised the question of "whether they should have been accepted into military service in the first place."

I think it is unwise and, indeed, unfair to thrust young men of any race into situations and responsibilities for which they are not prepared and in which they cannot compete. It is especially unfortunate to do so on board a fighting ship, where the crewmembers must live and work as a team.

When the unqualified in such situations find that they cannot compete, it is almost inevitable that they will then seek to take refuge in charges that they are being discriminated against. It does not take much more to move from that point to disciplinary problems, to fights, riots, and even highly expensive sabotage of the sort which has occurred recently on some Navy ships.

It is, then, much to the credit of Admiral Zumwalt—who has taken a considerable amount of criticism for his efforts to liberalize naval personnel policies—that the Navy is moving now to review those policies and deal with its problems on the two fronts of recruiting and getting rid of the unfit.

It should be said that whites as well as blacks are among those being discharged by the Navy. That is as it should be. There is no reason for the armed services to make decisions as to qualifications on the basis of race. Any well-qualified black should have equal opportunity in our Navy, Air Force, or Army, to go to the very top, if he can do so. By the same token, the misfit white as well as the misfit black should be weeded out.

There is a lesson in this, Mr. President, for all who are interested, as I am interested, in the future of our armed services and in the future of our country. Our Nation quite literally depends for its survival upon the intelligence, the loyalty, the discipline, and the dedication of the men and women—from the lowest ranks to the highest—who make up its Army, its Air Force, its Navy, and its Marine Corps. In all of these services, the quality and qualifications of the recruit in the volunteer era ahead will be all important.

I commend Admiral Zumwalt and the Navy again for moving to meet the problems with intelligent, resolute action. And I support them in this endeavor.

Mr. President, I ask unanimous consent that an article dealing with this subject, which I have been discussing, and which appeared in the New York Times of February 2, be printed in the RECORD.

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

NAVY PURGING ITS RANKS OF "UNDESIRABLES"

(By Everett R. Holles)

SAN DIEGO, Feb. 1.—The Navy is quietly ridding itself of what it considers misfits and malcontents, both black and white, in an effort to tighten discipline and head off further outbreaks of racial rioting and other disorders aboard its ships and at shore stations.

A large-scale discharge of enlisted men found to be "a burden to the Navy"—most of whom have served at least one year and are themselves eager to get out of uniform—is being carried out under a Dec. 26 directive from Adm. Elmo Zumwalt Jr., Chief of Naval Operations.

Most of those released will be given general discharges "under honorable conditions." The official certificates, however, will carry code numbers—understood by many employers—signifying that the discharged sailors were "undesirable" and "unsuitable for re-enlistment."

To be eligible for the so-called "mutual benefit" discharges, the sailors' records must show marginal performance or substandard conduct or evidence that they have been "an administrative burden because of repeated minor disciplinary infractions."

The first lists of those recommended for discharge by their commanding officers are now being reviewed and processed by the Bureau of Naval Personnel in Washington.

Navy spokesmen here were reluctant to discuss the scope of the new policy.

In Washington, a Pentagon official said a total of 2,905 servicemen, of whom 378 are black, would be affected.

It was understood here, however, that in the Pacific fleet, which represents about half of the Navy's 600,000 men, as many as 6,000 "undesirables," a substantial proportion of them black, might be let out in the next few weeks, with more to come.

At the same time, recruiting efforts have been intensified and enlistment standards—relaxed over the last two or three years to attract more recruits from the minorities—have been tightened, the Navy says, with new emphasis on educational and character qualifications.

A shakeup by Rear Adm. Emmett Tidd, Chief of Navy Recruiting, resulted recently in removal of the officers in charge of 15 of the Navy's 41 recruiting districts.

1 OF 6 HAD POLICE RECORD

During the last year, one of every four new Navy recruits stood at Mental Level 4 in the AFQT, or Armed Forces Qualifications Tests, meaning that the man's reading ability averaged that of a sixth-grader.

Many had never held a steady job and one in six had a police record. In 1971 the Mental Level 4 recruits accounted for only one in seven of all new enlistments.

Many sailors from this Level 4 group will be let out under the new policy. Often because of poor schooling, the Navy says, they were unable to qualify for training in the required technical skills.

Dissident sailors insist, however, that they were never given a fair chance to learn and that, in the case of blacks, they were the targets of racial discriminations.

One minority affairs officer said that, although the order applies to all enlisted men, the number of blacks to be let out would probably be disproportionately higher than their 6 per cent representation in the Navy's ranks.

The reason, he said, is the inferior quality of many ghetto schools and a lack of work habits and motivation.

"There are too many recruits not only blacks but members of other minorities and underprivileged whites as well—who cannot cope with the technical training in the skills needed to operate our sophisticated weapons and navigational systems," he said.

"As a result, they are forced into menial jobs, in the laundries, in mess gallery and in deck crews. Their work performance is poor and their opportunities for advancement are very limited. This frequently produces festering resentment which may erupt violently. The blame is not the Navy's, it goes deeper into the American social system."

HOUSE UNIT'S REPORT CITES

Morale problems culminating in the recent racial disorders aboard the aircraft carriers Kitty Hawk and Constellation, and several other less publicized shipboard incidents, led to the new Zumwalt directive.

A report last week by a three-man panel of the House Armed Services Committee, which came here to investigate the Kitty Hawk and Constellation troubles, said most of the Kitty Hawk rioters were young blacks of "below average mental capacity," and questioned "whether they should have been accepted into military service in the first place."

The report urged the Navy to move quickly in screening out agitators, troublemakers "and anyone else who does not measure up."

A spokesman at North Island Naval Air Station, home port of the Kitty Hawk and Constellation, stressed that Admiral Zumwalt's directive was not a response to the committee's findings but was issued a month before publication of the Congressional report.

The criteria for discharging the unwanted sailors provide that, with a few exceptions, each man must have served at least one year of his normal four-year enlistment, thereby assuring him of veteran's benefits, and that he must sign a formal request to be discharged.

NO STIGMA, NAVY SAYS

The discharge he receives, Navy spokesmen say, will lack the stigma attached to the administrative discharges that have been handed out in mandatory fashion to many of the 132 sailors involved in the Constellation troubles following their hearings before captain's masts.

Men currently in disciplinary status are not eligible for the "mutual benefit" discharges. These include 22 Kitty Hawk crewmen, all but one of them black, who were ordered tried before special courts-martial that are still under way here at the 11th Naval District Law Center.

The Navy, which has not drafted men since the late nineteen fifties, has issued orders to its recruiters to accept only "quality personnel" henceforth or, in the words of Adm. David Bagley, Chief of Navy Personnel, "men who want to get ahead, who are seeking and willing to shoulder greater responsibilities."

Early in 1970 the Navy relaxed its recruiting standards in hopes of doubling the number of black recruits to correspond roughly with the nation's 12 per cent black population, and to increase its black officers—still less than 1 per cent—by tenfold.

After the racial disorders aboard the carrier Constellation, the ship's executive officer, Comdr. John Schaub, said:

"I think the system we have had that encourages the recruiting of educationally deprived personnel, then places them in competition with others more fortunate is poorly conceived and totally unfair."

SKILLS TESTS EASED

The Navy also relaxed its skills tests used as a basis for job assignments "to reflect more accurately the abilities of minority personnel from rural areas or city slums," a relaxation that some officers slightly referred to as "the skim milk program."

At the start of 1971, the Navy was taking 14 per cent of its recruits from the Mental Level 4 group. By 1973, the ratio rose to 24.9 per cent. Last November, soon after the Kitty Hawk and Constellation incidents, the enlistment of men at the lower qualification levels was halted and emphasis was placed on "school eligibles," those qualified by education and background to receive technical training at the Navy's electronics, nuclear propulsion, avionics, ordnance and other Class A schools.

The 1973 goal, according to Navy spokesmen, is to obtain 75 per cent of these "school eligibles." In 1972 the ratio was 60.4 per cent, actually lower than in 1970 and 1971.

The Navy is also stepping up its BOOST (Broadened Opportunities for Officer Selection and Training) program to prepare black

and other minority enlisted men for college and careers as officers.

The candidates are selected on the basis of post-enlistment tests for one year of intensive tutoring and counselling so they can compete for entrance to universities, colleges for enrollment in NROTC units and, for a few of them, appointment to the Naval Academy.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

CONSTITUTIONAL COLLISION ON IMPOUNDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement titled "Constitutional Collision on Impoundments" which I made before the Judiciary Subcommittee on Separation of Powers and an ad hoc subcommittee of the Committee on Government Operations yesterday, February 6, 1973.

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

CONSTITUTIONAL COLLISION ON IMPOUNDMENTS

Mr. Chairman, I am pleased to appear today to join in support of S. 373, introduced by Chairman Ervin and cosponsored by almost one-half of the Senate, myself included. I wholeheartedly subscribe to the vital principle which this legislation seeks to restore and preserve, namely, the constitutional power and authority of the Congress to determine in what amounts, and the purposes for which, the Nation's revenues will be spent.

We have today been brought face to face with what recent newspaper editorials and network commentators have called the "constitutional collision of our generation" and "the constitutional crisis of the century." It is a crisis that has crystalized quite abruptly as a result of certain impoundments of budget authority by President Nixon during the past few months, but it is a process that has been going on for years under various Presidents representing both political parties. The distinguishing feature of the recent impoundments which has sparked the storm of controversy lies in the fact that while some impoundments are legal and appropriate—for example, the withholding of current funds to protect against future deficiencies in programs—many of the recent impoundments have not been sanctioned by the Congress, and, in the judgment of the cosponsors of this legislation, such impoundments constitute an instrument resorted to solely for the implementation of fiscal and economic policy.

This is where the grave constitutional question arises, and it comes at a time when the whole issue of separation of powers is being raised in many areas simultaneously—executive privilege, war powers, and so on. In all of these, the problem is one, perhaps not entirely of our own making, but, nonetheless, one to which Congress itself has substantially contributed by acts of commission as well as omission.

Regarding the constitutional issue involving impoundments of budget authority as an instrument in the exercise of fiscal and economic policy, several United States Senators, the Majority Leader and I included, have joined with you, Chairman Ervin, in filing an *amicus curiae* brief in the case of *State Highway Commission of Missouri v. John A. Volpe, Secretary of Transportation and Caspar W. Weinberger, Director of the Office of Management and Budget*. The case is on appeal to the Eighth Circuit from the U.S. District Court for the Western District of Missouri. The District Court ruled last June that the Secretary of Transportation does not have the power to impound Federal highway funds indiscriminately. But the case does not go to the question of the Constitutional power of the President to impound legislatively appropriated funds, since the case turns on statutory construction of the Federal-Aid Highway Act which includes a section prohibiting impoundment except under strict limitations. Therefore, S. 373 goes to the broader question of impoundment—limiting the power of the Executive to impound except where that impoundment is sanctioned by the Congress.

As I have indicated, the problem with which we are here dealing is one that is largely of Congress' own making. Candid reflection compels the admission that, for too long now, the Congress has been unwilling to wield its power of the purse in accordance always with the highest sense of responsibility. I hesitate to suggest that it is too much to expect of the Federal Legislature—considering the countless cross currents of spending pressures to which it is constantly subjected, and keeping in mind its constitution of 535 members with differing views and differing constituencies—that it at all times act in a fiscally responsible manner. But one cannot deny the patently evident fact that a high degree of fiscal responsibility, political independence, and statesmanship has not been the constant standard by which the Congress has measured its collective judgment regarding the authorization and funding of programs.

In many instances, Congress has acquiesced in the creation and funding of costly and unsound programs urged upon it by Presidents of both parties. It has all too often yielded, also, to the political pressures of blocs and groups with vested interests in continued and increased funding for various and sundry programs. It cannot be gainsaid that organized special interest groups, with political clout, have, on many occasions, influenced the creation and perpetuation of costly pet programs, the financial burden of which is borne by the general public. Any effort to cut back or eliminate programs once started—notwithstanding their exorbitant cost and inefficiency—has invariably been met with organized resistance and cries of anguish from one pressure group or another.

Little wonder that the small voice of the people—unorganized, inarticulate, docile, and, yes, complacent—has been drowned by the thunder of politically powerful pressure groups.

Too many of us have not had the intestinal fortitude to say "no" to these pressures. As a matter of fact, quite candidly, too many of us over the years have virtually outdone ourselves in currying the favor of organized pressure groups that advocate more and more spending as the solution for more and more problems, this being the way to get more and more votes. The result: more and more deficits; more and more debt, and more and more interest on the debt; and, at last, a super-politically-sensitive President who correctly interprets the mood of the American taxpayer who, in turn, is fed up with it all and has had enough!

So, the brakes have been applied; the impoundment of funds is resorted to as a bald instrument of economic policy; worthwhile programs are victimized along with those that are unworthwhile and which we ourselves have shown neither the wisdom nor the guts to terminate; and we suddenly have a serious constitutional question on our collective hands.

But neither the fact that the Congress has been derelict in its past responsibility, nor the fact that this Administration in the short period of five years will have accumulated a Federal funds deficit by June 30, 1974, of $134 billion—26 percent of the then total national debt of $505 billion, going back well over 100 years—none of this relieves the Congress of its responsibility to squarely confront the constitutional issue that has now been joined.

Does the President have the authority to impound funds? Article I, Section 9, Clause 7 of the Constitution reads as follows:

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; . . .

While it is clear that no funds may be expended without the authority of Congress, there is no constitutional provision explicitly requiring the President to spend funds made available by the Congress. However, it is my belief that other provisions of the Constitution, as I shall refer to them later, impliedly and logically deny the President's use of impoundments purely as an instrument of fiscal and economic policy.

But to say that the President does not constitutionally possess this authority is *not* to say that much of the public—perhaps a majority, even a sizeable majority—does not applaud the substantive effect of his actions in reducing or eliminating unwanted, ineffective, and costly programs; I think the public approves and supports what he is doing. The President's actions have political appeal, and I think they are what the people want, especially in the present context of growing deficits, burgeoning national debt, and continuing inflation. We have too long overstated the theme that ours is a nation of poor people; that this country is, from sea to shining sea, in abject poverty; and that money is the solution for every problem. The taxpayers have had enough of this, and I will wager that a few random telephone calls back home will suffice to convince most Members of Congress that such is the case.

But it *is* to say that the Congress has a duty to act forthwith to retrieve and reestablish its constitutional power of the purse. If Congress really is determined to do this, I think it is imperative that Congress move in the following directions:

(1) It *must* demonstrate a proper restraint in the consideration of future spending programs, and this restraint must guide *both* the legislative committees and the appropriations committees. In other words, the constitutional power of the purse must be exercised by Congress more responsibly, prospectively, than in the past.

(2) Congress must apply a ceiling on budget authority, and both the authorizing and the appropriations committees must govern themselves accordingly. Incidentally, I think it is appropriate to mention here that Congress, in consideration of the appropriations bills, has, during the past four years, effected *reductions* amounting to approximately $20 billion in the *budget authority requested by the President*. Nonetheless, if Congress does not place a ceiling on budget authority, it will be saddled with blame for the tax increase that will inevitably result. The Administration has suggested a ceiling on FY 1974 expenditures of $269 billion and has submitted a budget trimmed to that amount. Keep in mind, that the Administration's budget makes no mention of funds for reconstruction in Indochina even though the Administration has already made a commitment for such, meaning only that such funds, when they are requested, will come out of the hide, so to speak, of other budgeted

programs—or out of a tax increase which will be blamed on Congress if it goes over the $269 billion ceiling. Overstepping the ceiling will also subject Congress to blame for the inflation which, in my judgment, will soon again show signs of an upward trend as the *direct aftermath of premature scuttling* of most of the Phase II price and wage controls.

In any event, any ceiling on budget authority should be a *Congressionally imposed* ceiling—not a presidential ceiling—if we are to restore and preserve Congressional power of the purse.

(3) Congress must find some way, perhaps through a permanent joint committee, to exercise a continuous overview of revenues and expenditures, to relate anticipated revenues with budget authority, and to provide guidance to the two Houses in establishing priorities and ceilings in a meaningful, effective, and responsible way. I think there has been too much poor-mouthing of the Congress with respect to the tools which it already has at hand. It merely needs to determine the direction in which—and show the will—to use them. It is not a helpless giant, and it is not necessary that we fill the corridors with millions of dollars worth of computers which will stand idle 360 days out of the year, nor is it necessary that Congress arm itself, man for man, in an effort to match the Executive Branch. The Executive Branch administers the laws; the Congress enacts them. But Congress does have available to it, 5,000 employees of the General Accounting Office, many of whom can readily be made available to the appropriations committees or other committees upon request.

I think it is necessary for us to explore such a joint committee approach as I have suggested or some other permanent approach which will afford us a better utilization, then we have heretofore demonstrated, of the Congressional tools which we have at hand.

(4) Congress must try to devise workable, feasible legislation, which will be sustainable in the courts and which will protect its constitutional authority to determine how the people's moneys will be spent, how much will be spent, and for what purposes. To devise such legislation and to enact it into law will not be an easy task, as we shall all eventually surely see. But try we must, and I congratulate the Chairman of the Separation of Powers Subcommittee on the effort that is being made here. No Senator is so pre-eminently qualified as he for such a difficult, such a challenging and important task. He has my support and the support of all Senators in both parties who view the matter, not as a partisan matter, except perhaps incidentally, but rather as a grave and far-reaching challenge to the rightful position of Congress in a constitutional system of separation of powers.

The separation of powers concept in the Constitution traces its development from Plato and finds its fullest development prior to the American Constitution in Montesquieu's "The Spirit of the Laws." There he states: "To form a moderate government, it is necessary to combine the several powers; to regulate, temper, and set them in motion; to give, as it were, ballast to one, in order to enable it to counterpoise the other. . . . Political liberty is to be found only in moderate governments; and even in these it is not always found. It is there only when there is no abuse of power. But constant experience shows us that every man invested with power is apt to abuse it, and to carry his authority as far as it will go. Is it not strange, though true, to say that virtue itself has need of limits? . . . To prevent this abuse, it is necessary from the very nature of things that power should be a check to power . . . . When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; . . .".

Montesquieu then specifically addressed the issue of the Executive usurpation of the legislature's powers to appropriate: "The executive power has no other part in the legislative than the privilege of rejecting . . . Were the executive power to determine the raising of public money, otherwise than by giving its consent, liberty would be at an end; because it would become legislative in the most important point of legislation . . . If the legislative power were to settle the subsidies, not from year to year, but for ever, it would run the risk of losing its liberty, because the executive power would be no longer dependent; . . .".

For the American Federalists, the system of checks and balances, written into the Constitution, so contrived "the interior structure of the government that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places." This they considered the prime advantage to be gained from Montesquieu's principle of the separation of powers. The principle itself they held to be "the sacred maxim of free government."

In Federalist No. 58, Montesquieu's expressions of fear of the Executive use of the appropriating function manifested itself in holding that power to the elected representatives of the people, the legislature:

"The House of Representatives cannot only refuse, but they alone can propose, the supplies requisite for the support of government. They, in a word, hold the purse—that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representative of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure".

It is in this light that we must look at the delineated powers as they became expressed in the Constitution. There, all legislative power is vested in the Congress (Article I, Section 1), including the power to appropriate money (Article 1, Section 9). The President, on the other hand, is given no role in legislation except the power to recommend "such measures as he should judge necessary and expedient" (Article II, Section 3) and the power to veto measures passed by the Congress (Article I, Section 7).

He also has the responsibility to "take care that the laws be faithfully executed." (Article II, Section 3). Certainly the founders did not intend the President any discretion when they imposed that duty upon him. On the contrary, it was intended that he execute *all* laws passed by the Congress. An appropriation bill enacted into law is a law, as surely as is any other. The President has no authority to decide *which* laws will be executed or to *what extent* they will be enforced *except* through his veto power.

It is also evident the founders intended to limit the veto power giving the President a limited veto, subject to being overridden by the Congress.

In fact, in Catherine D. Bowen's history of the Constitutional Convention, *Miracle at Philadelphia*, we find:

"On the question of an absolute veto for the executive, the Committee voted no, ten states to none. At some point in the discussion, Madison had suggested that a proper proportion of Congress be allowed to overrule the executive veto. No chief executive, Madison said, would have firmness enough to go against the whole of Congress. Even the King of Great Britain in all his splendor could not withstand the wishes of both Houses of Parliament!

"On these variations of the executive revisional power the states voted, but no agreement was reached, nor would be until June eighteenth, when the Committee finally granted the veto power to the executive, subject to overruling by two thirds of Congress. So it would stand in the Constitution."

Despite the clear intent of the Framers to limit the President's power to legislate and especially to not allow him the power of an absolute veto, by impoundment the President is in effect able to veto measures *absolutely* after they have passed the Congress and been signed by him. Such a procedure grants to the President not only an *absolute* veto—immune from being overridden—but also a line, or item, veto in that he may impound whatever part of an appropriation he wishes and enforce other parts of the same bill. Such a power clearly is prohibited by the Constitution which only empowers him to veto entire bills. Thus, by impounding appropriated funds, the President is able to modify, reshape, or nullify completely laws passed by the legislative branch, thereby making legislative policy through Executive power. Such an illegal exercise of power of his office flies directly in the face of clear Constitutional provisions to the contrary.

Against this historical background, it is difficult to understand how the Congress has allowed the present practice of impoundment to go unchallenged. But it has come into being because, as I have already stated, we in the Legislative branch have allowed the Executive branch to usurp our job. The impoundment of funds was used to some degree in the 1930's under President Roosevelt to effect savings during the Depression years. Impoundment was also used by the President during the Second World War to offset growing military expenditures by withholding funds for certain civilian programs. Due to the critical nature of the times, there was no real opposition in the Congress to the practice, although Senator Robert LaFollette, Jr., and, later, Senator McKellar questioned the legality of the action. Subsequent impoundments through the years have only rarely been challenged, as when Senator Lyndon Johnson challenged the impoundment of funds for construction of Polaris submarines in 1959 by President Eisenhower.

For years, as I have said, we in the Congress have appropriated huge sums of money for various programs that aided our various constituencies with little regard for their overall effect on the tax burden on the American people and the growing inflation in our country. We believed we could have "butter and guns" and that almost any social ill could be solved by pouring unlimited amounts of money on the problem. In the name of holding down inflation and rising taxes, Presidents impounded more and more of the funds that we had appropriated. In forty years, and especially within the last ten, we in the Congress have let the Executive branch arrogate to itself that one power that had been so carefully nurtured by the Framers as the people's one great power against the Executive—the power of establishing priorities as to how the moneys were to be spent. Congress now belatedly realizes what has passed it "in the night."

And it is this power that the Congress must regain and use wisely.

It must be the Legislative branch that determines what programs are to be funded if the United States is not to become an Executive form of government. To that end, the Congress has created a Joint Committee on the Budget, but much more is needed. As I have already indicated, but it is worth

repeating, the legislative committees and the appropriation committees must work more closely to try to hold each program's needs down to a proper part of the whole. The Congress must face the issue of priorities in our Nation and allocate our resources in relation to those priorities. If each substantive committee exercises some self-restraint on its priority legislation, all of us will benefit by the more effective and judicious use of the limited appropriations available.

In order to properly determine what our priorities should be and to be able to budget properly, the Congress must also know what items have been impounded in the past and must have a mechanism to inform itself of impoundments in the future that the Congress feels are of high priority and without Congressional sanction. To these ends, I offered an amendment last month to H.J. Res. 1, extending the time within which the President may transmit the budget message to the Congress. My amendment required the President to report to the Congress all impoundments from June 30, 1972, through January 29, 1973, by February 5. As amended by the House and agreed to by the Senate, the amendment was amended to require such a report by February 10, 1973. I offered this amendment because the Administration had failed to respond to Senator Humphrey's amendment to the 1972 Debt Ceiling bill, which amendment required that any impoundments made by the Executive branch be reported "promptly" to the Congress.

Mr. Chairman, as I stated earlier, the enactment of sound, workable legislation is going to require the best in all of us. Over the weekend, I gave much thought to S. 373, reviewing its parts carefully. I, therefore, offer what I hope will be some constructive suggestions. They are as follows:

(1) In light of the history of the Administration's respect for the word "promptly" as used in legislation seeking impoundment information, I wonder if the Subcommittee ought not consider inserting the words "within ten days" in lieu of the word "promptly" on page 3, line 9, in section (d) of the bill, where the President is required to notify the Congress if revisions are made regarding information transmitted under section (a)—since section (a) imposes a ten-day time limit on the reporting of impoundments.

(2) I would recommend that, beginning on page 1, line 3, the words "funds appropriated or otherwise obligated for a specific purpose or project" be deleted, and, in lieu thereof, the committee insert, after the word "any", the words "budget authority made available." The reason for this recommendation is that the bill, as drafted speaks of "funds appropriated or otherwise obligated." In my judgment, funds that have been "otherwise obligated" cannot be impounded. Moreover, the words "funds appropriated or otherwise obligated for a specific purpose or project" would not include contract authority or authority to spend debt receipts. Included in authority to spend debt receipts, for example, is the REA loan authority, and included in contract authority, for example, would be Water Pollution Control.

The Congress needs to be informed regarding impoundments of any and *all budget authority*, whether the funds are appropriated, whether it is a contract authority (for example, the highway program and water pollution control program) or otherwise—not just "funds appropriated." There would also appear to be no sound reason for the words "for a specific purpose or project," because such words appear to place a limitation on the information which is to be submitted to the Congress. It would be better for the Congress to be informed on *any* and *all* budget authority, whether it is for a specific purpose or project, or otherwise (e.g., loan authorizations, appropriations, contract authority, etc.). It should be noted that the FY 1974 budget provides budget authority in excess of $10 billion in contract authority and in excess of $1,800,000,000 in authority to spend debt receipts. Certainly, if *any* of these items are impounded, the Congress should be informed. In other words, Mr. Chairman, the ambiguity arises in the fact that contract authority is not "funds appropriated" nor is it "funds otherwise obligated." Other examples of contract authority which the present verbiage of the bill would not, in my judgment, reach, are urban renewal funds—capital grants; grant-in-aid for airports; Appalachian Regional Development programs; forest highways; and many others.

In this regard, Mr. Chairman, I would also suggest that the word "funds" be changed to the words "budget authority" wherever the word "funds" appears throughout the bill.

I would also suggest that, on page 4 of the bill, line 6, the words "expenditure or" be deleted, that being superfluous; and that following the parenthesis on line 8, all the words be stricken down to, but not including the comma on line 11, and that the words "made available" be inserted in their stead. I suggest this change because the phrase "projects and activities" could very well limit the information which ought to be submitted.

On page 4, line 13, I would suggest that the words "or expenditure of the appropriated funds" be stricken and that the words "of budget authority" be substituted therefor.

I further suggest that on page 4, after line 14, the committee consider inserting a third paragraph, to read as follows:

(3) Impoundments include the establishment of budgetary reserves pursuant to the provision of the Anti-Deficiency Act (31 U.S.C. 665). I make this suggestion because, as far as I personally know, there is no clear, precise, legal definition of the word "impoundments." Information heretofore furnished to the Congress by the Administration on impoundments, for instance, has referred to "budgetary reserves" pursuant to the provisions of the Anti-Deficiency Act. For this reason, it seems desirable to write into the law the impoundments we are talking about and at least include "budgetary reserves" set up pursuant to the Anti-Deficiency Act.

(3) I would suggest that it is not necessary to print as a document *for each House*, the special message referred to in line 1 of page 3. To avoid unnecessary expense, as well as unnecessary confusion which would result from having two differently numbered documents, I would suggest that a document printed by *either* House would be sufficient. Moreover, I think that the "special or supplementary message" referred to on line 12, page 3 of the bill, should also be printed as a document by one of the two Houses. I do not believe that Members of Congress should have to await the printing of such supplementary message in the "first issue of the Federal Register" subsequent to transmittal of such message.

(4) I come now to what I consider to be a major weakness in the bill, namely, no committee is designated as having the responsibility for developing the concurrent resolution referred to on line 1 of page 4 of the bill. Perhaps it was thought, in the preparation of S. 373, that no committee action would be necessary and that, in the interest of expeditious action, the procedures recommended in the bill would be preferred. However, I believe that unless clear responsibility is placed upon one or more committees of either or both Houses, the bill's provisions concerning the concurrent resolution would be infeasible. Are we to expect that a resolution will spring into full flower from the Floor of either House? Will just any Member of the Congress—Senator or Representative—be expected to take the matter immediately in hand and devise a resolution ratifying the impoundment of this or that budget authority and rejecting the impoundment of other budget authority?

It just seems to me, Mr. Chairman, that the bill must establish a specific mechanism for the handling of such special messages from the President, and for the decision-making with respect to what budget authority will or will not be ratified, together with responsibility for preparation of the resolution of ratification. Unless such a mechanism is specified, I fear the bill will fail of its purpose.

In other words, Mr. Chairman, I do not see the wherewithal in the provisions of this bill to generate the action leading to the resolution of ratification. Moreover, I have been advised that impoundments of budget authority are going on daily or weekly throughout the Executive Branch. If this is so, then I would anticipate a continuous flow of information on such impoundments, which, in turn, would require almost continuous study by a committee or committees of the Congress and which would also require repeated Floor action—certainly every 60 days or so—in connection with resolutions of ratification. Without the committee mechanism, it seems to me, I repeat, the approach which we seek to establish here would be unworkable. I would not want to venture a suggestion as to what committee or committees should have this responsibility. It may be that all committees having jurisdiction over the various impoundments would have to make some contribution in this regard. But I do wish to raise this question for the committee's consideration here today.

(5) I note that section 4 of the bill provides special procedures to be followed during Floor debate, and some of them apparently are modeled after the procedures set forth in the Reorganization Act of 1949 dealing with reorganization plans. I question, however, whether amendments to ratification resolutions, should in all cases *not* be in order. Perhaps a time limitation could be placed on amendments, to come out of the time allotted for debate on the resolution, with nongermane amendments being out of order.

(6) Finally, Mr. Chairman, the committee may wish to consider redrafting the bill to require that the President, if he wishes to impound budget authority not already sanctioned by the Congress, first submit a formal request to the Congress for such permission which, if denied, would preclude the President from making such impoundments. In this way, the consent of Congress would be sought and would be required as a condition precedent before budget authority could be impounded (except where previously sanctioned by anti-deficiency legislation, Congressional mandate, etc.). In other words, the consent of Congress would have to be gained *before* the fact, rather than *after* the fact, viz., after the impoundments have occurred, as is envisioned by S. 373, the bill which we are here discussing.

Mr. Chairman, I appreciate the indulgence of the committee in allowing me to appear at this hour, and I am grateful for the courtesy that has been accorded me. I do not envy you your task. You certainly have my support in the effort to find a way to legislate a workable solution to the problem we face.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HARRY F. BYRD, JR.) laid before the Senate the following communi-

cation and letters, which were referred as indicated:

PROPOSED LEGISLATION TO AMEND THE FOREIGN ASSISTANCE ACT OF 1961

A communication from the President of the United States, transmitting a draft of proposed legislation to amend the Foreign Assistance Act of 1961, and for other purposes (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

A letter from the Chief Justice of the United States, transmitting, pursuant to law, a report of the Judicial Conference of the United States (with accompanying papers); to the Committee on the Judiciary.

REPORT ON POSITIONS IN GRADE GS–17

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on positions in grade GS–17 for the year 1972 (with accompanying papers); to the Committee on Post Office and Civil Service.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. HARRY F. BYRD, JR.):

A telegram, in the nature of a petition, praying for the return of the lands of Culebra and Vieques to the Commonwealth of Puerto Rico; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, with amendments:

S. Res. 59. A resolution relating to the railroad transportation crisis caused by the freight car shortage and other factors (Rept. No. 93–16).

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

S. Con. Res. 8. A concurrent resolution relating to the designation, administration, and expenses of the Joint Study Committee on Budget Control (Rept. No. 93–17); referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

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

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

Daniel P. Moynihan, of New York, to be Ambassador Extraordinary and Plenipotentiary to India;

Richard Helms, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary to Iran;

James Keogh, of Connecticut, to be Director of the U.S. Information Agency;

Richard T. Davies, of Wyoming, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Poland;

Cleo A. Noel, Jr., of Missouri, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Democratic Republic of the Sudan; and

Melvin L. Manfull, of Utah, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Liberia.

The above nominations were reported with the 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.

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

Thomas F. McCormick, of Connecticut, to be Public Printer.

The nominee has assured the committee that he will 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. McCLELLAN (for himself and Mr. FULBRIGHT):

S. 790. A bill to provide an additional permanent district judgeship in Arkansas. Referred to the Committee on the Judiciary.

By Mr. MUSKIE (for himself, Mr. BROOKE, Mr. COTTON, Mr. HATHAWAY, Mr. KENNEDY, Mr. McINTYRE, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. ROTH, and Mr. WEICKER):

S. 791. A bill to amend the Export Administration Act of 1969 with respect to the exclusion of agricultural commodities from export controls. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MUSKIE:

S. 792. A bill to amend the Federal Water Pollution Control Act, and for other purposes. Referred to the Committee on Public Works.

By Mr. CRANSTON (for himself, Mr. MONDALE, Mr. BURDICK, Mr. HART, Mr. HARTKE, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. McGOVERN, Mr. MUSKIE, Mr. PELL, Mr. RANDOLPH, and Mr. WILLIAMS):

S. 793. A bill to provide public service employment opportunities for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

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

S. 794. A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. PELL (for himself, Mr. EAGLETON, Mr. MONDALE, Mr. TAFT, and Mr. JAVITS):

S. 795. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. PELL:

S. 796. A bill to improve museum services. Referred to the Committee on Labor and Public Welfare.

By Mr. BEALL (for himself, Mr. CASE, Mr. CRANSTON, Mr. DOMINICK, Mr. EAGLETON, Mr. FANNIN, Mr. GOLDWATER, Mr. GRAVEL, Mr. HATFIELD, Mr. HUMPHREY, Mr. JAVITS, Mr. MATHIAS, Mr. METCALF, Mr. RANDOLPH, and Mr. SCOTT of Pennsylvania):

S. 797. A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such system if such study demonstrates their feasibility. Referred to the Committee on Commerce.

By Mr. BURDICK (for himself, Mr. BELLMON, Mr. BROCK, Mr. CRANSTON, Mr. HATHAWAY, Mr. HART, Mr. HUGHES, Mr. HUMPHREY, Mr. MANSFIELD, Mr. McGEE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. PERCY, Mr. SCOTT of Pennsylvania, Mr. STEVENSON, Mr. SYMINGTON, Mr. TUNNEY, and Mr. ABOUREZK):

S. 798. A bill to reduce recidivism by providing community-centered programs of supervision and services for persons charged with offenses against the United States, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 799. A bill to provide adjustment assistance to Vietnam era prisoners of war. Referred to the Committee on Armed Services.

By Mr. McCLELLAN (for himself, Mr. MANSFIELD, Mr. KENNEDY, Mr. ROBERT C. BYRD, and Mr. BIBLE):

S. 800. An original bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the compensation of innocent victims of violent crime in financial stress; to make grants to the States for the payment of such compensation; to authorize an insurance program and death benefits to dependent survivors of public safety officers; to strengthen the civil remedies available to victims of racketeering activity and theft; and for other purposes. Placed on the calendar by unanimous consent.

By Mr. INOUYE:

S. 801. A bill for the relief of Federico P. Vidad. Referred to the Committee on the Judiciary.

By Mr. BARTLETT:

S. 802. A bill for the relief of Ronald K. Downie. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 803. A bill to provide for the designation of the Escalante Trail, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BIBLE (for himself, Mr. ABOUREZK, Mr. BEALL, Mr. BENNETT, Mr. BURDICK, Mr. CANNON, Mr. ERVIN, Mr. GRAVEL, Mr. GURNEY, Mr. HART, Mr. HASKELL, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. McCLELLAN, Mr. McGEE, Mr. McGOVERN, Mr. McINTYRE, Mr. METCALF, Mr. MOSS, Mr. MUSKIE, Mr. NUNN, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCOTT of Pennsylvania, Mr. SPARKMAN, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG):

S. 804. A bill to amend the Small Business Act to consolidate and expand the coverage of certain provisions authorizing assistance to small business concerns in financing structural, operational, or other changes to meet standards required pursuant to Federal or State laws. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MOSS:

S. 805. A bill to establish a National Institute of Marketing and Health. Referred to the Committee on Commerce.

By Mr. BURDICK:

S. 806. A bill to amend section 205 of the Flood Control Act. Referred to the Committee on Public Works.

By Mr. BURDICK (for himself, Mr. MANSFIELD, and Mr. METCALF):

S. 807. A bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of

customs officers and employees. Referred to the Committee on Finance.

By Mr. GRAVEL (for himself and Mr. PASTORE):

S. 808. A bill to authorize the Commissioner of Education to undertake a program to screen elementary school children in order to identify children with specific learning disabilities. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY:

S. 809. A bill to amend section 5 of the Urban Mass Transportation Act of 1964. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MOSS:

S. 810. A bill to provide for the issuance of a special series of postage stamps to commemorate the bicentennial of the Escalante Expedition. Referred to the Committee on Post Office and Civil Service.

By Mr. HATFIELD:

S.J. Res. 54. A joint resolution repealing the Military Selective Service Act of 1967. Referred to the Committee on Armed Services.

S.J. Res. 55. A joint resolution proposing an amendment to the Constitution of the United States with respect to the conscription of persons for service in the military forces. Referred to the Committee on the Judiciary.

By Mr. CRANSTON:

S.J. Res. 56. A joint resolution to authorize the President to proclaim the week containing February 12 and 14 as Afro-American History Week. Referred to the Committee on the Judiciary.

By Mr. BARTLETT:

S.J. Res. 57. A joint resolution proposing an amendment to the Constitution of the United States relating to prayer in public schools. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLELLAN (for himself and Mr. FULBRIGHT):

S. 790. A bill to provide an additional permanent district judgeship in Arkansas. Referred to the Committee on the Judiciary.

ADDITIONAL JUDGESHIP FOR ARKANSAS

Mr. McCLELLAN. Mr. President, I have today introduced for myself and my distinguished colleague from Arkansas (Mr. FULBRIGHT), a bill to create an additional permanent judgeship for the eastern district of Arkansas. I had hoped that the Judicial Conference would have taken appropriate notice of the situation that is developing in Arkansas, and that the Eastern District could have been included in the pending omnibus judgeship bill (S. 597). Apparently, however, the Conference did not have available all of the most recent data. Consequently, the Eastern District did not receive a favorable recommendation.

Each quadrennial since 1964, Judicial Conference receives requests for judicial manpower. This year the Conference received requests for 80 judgeships, 73 of which were recommended by the circuit councils. The Subcommittee on Statistics of the Conference recommended 47, the Subcommittee on Court Administration of the Conference recommended three, and the Conference itself added one, making a total of 51.

Prior to making its recommendations, the Conference was supposed to review the statistical picture in each district for current filings, weighted filings, terminations, pending cases, trials and trial days, and an estimate of the district's projected 1976 filings. Also to be considered were the recommendations of the chief judges of the districts.

In general, an additional judgeship was recommended by the Conference when the 1976 projected filings per judgeship reached 400 or more, and no additional judgeships were recommended if the 1976 project fell below the 1971 national average of 341 filings.

These criteria were not applied inflexibly, according to the Conference. Other factors were considered, including the role of the magistrates, the presence of senior judges, and past experience of the district.

Unfortunately, the Eastern District of Arkansas was not among the 51 recommendations.

The Eastern District now has one permanent judgeship. The Eastern and Western Districts share two floating judgeships. Based on statistics presented to the Subcommittee on Judiciary Improvements, the weighted 1971 filings for the Eastern District were 350 per judgeship; its raw filings for 1971 were 366; for 1972, 463. The projected raw filings for 1976 were 450. An additional judgeship was recommended by the council, but not by the Conference.

Had the recommendations of the council been followed, the 1976 projection would have fallen to 300; as it is, it remains at 450, inexplicitly 13 below the actual 1972 figure.

The Chairman of the Subcommittee on Judicial Statistics, Judge John D. Butzner, Richmond, Va., was asked in hearings held by the Subcommittee on Improvements in Judicial Machinery on January 23, 1973, to explain why the Eastern District did not receive a favorable recommendation from the Conference.

Judge Butzner said the conference felt that Arkansas should be looked at as a whole. The projected filings for the Western District for 1976 are 173 raw and 163 weighted. Consequently, judges from the Western District should be able to help the Eastern District carry its 1976 projection of 460 raw and 458 weighted.

Apparently, the 1972 figures available to the Conference were not complete. The most recent data available from the Administrative Office of the U.S. Courts indicates that the projected 1976 filing for the Eastern District will reach 500. One additional judgeship would bring this figure down to 333.

Except for pending caseload, all per judgeship statistics in the Eastern District are significantly above national averages. Its weighted filings, for example, is the eighth largest in the country and 140 above the national level. Its judgeship terminations by trial is the ninth largest in the country.

Mr. President, I do not introduce this bill lightly. In the past, I have been asked about Arkansas and have not recommended additional judgeships, because I did not feel they were needed. But that is not the case now.

Mr. President, I understand the Senate Subcommittee on Improvements in Judicial Machinery will give this legislation a hearing in connection with its processing of the omnibus judgeship bill. I am confident when all the facts are known that the Eastern District will receive the relief it needs.

By Mr. MUSKIE (for himself, Mr. BROOKE, Mr. COTTON, Mr. HATHAWAY, Mr. KENNEDY, Mr. PASTORE, Mr. RIBICOFF, Mr. ROTH, Mr. WEICKER, and Mr. PELL):

S. 791. A bill to amend the Export Administration Act of 1969 with respect to the exclusion of agricultural commodities from export controls. Referred to the Committee on Banking, Housing and Urban Affairs.

EXPORT CONTROLS ON CATTLEHIDES

Mr. MUSKIE. Mr. President, Senators BROOKE, COTTON, HATHAWAY, KENNEDY, McINTYRE, PASTORE, PELL, RIBICOFF, ROTH, WEICKER, and I are today introducing legislation that will permit the President to reinstitute export controls on cattlehides.

On July 15, 1972, Secretary of Commerce Peterson, acting under the Export Administration Act, imposed controls on cattlehides after the most careful, and I must say unduly deliberate, study. In announcing this action, Secretary Peterson underlined the administration's reluctance to impose controls, but indicated the absolute necessity for doing so. He cited the record high prices of hides and the Argentinian and Brazilian embargoes on hide exports as the major reasons for the administration's decision to impose controls.

A scant 2 weeks after Secretary Peterson's action, Congress passed an amendment to the Export Administration Act of 1969 which severely restricted the President's authority to impose export controls on hides. Since last summer, the price of hides has risen; tanneries have closed; and unemployment in the leather industry has been at an intolerably high level. In my own State of Maine, between 1968 and June of 1972, employment in Maine's leather footwear industry declined from 26,900 employees to 18,500. During 1971–72, 13 shoe firms in Maine employing 3,000 people have closed. The pattern is not unique to Maine. We must not allow the situation to deteriorate further through uncontrolled increases in cattlehide prices. Legislation is needed to restrict American export of cattlehides, so that the prices of these hides do not rise to a level beyond the reach of the shoe and leather industries in the United States. It is my hope that this bill will be acted on quickly by Congress. Its passage is essential to the health of these vital American industries.

By Mr. MUSKIE:

S. 792. A bill to amend the Federal Water Pollution Control Act, and for other purposes. Referred to the Committee on Public Works.

ENVIRONMENTAL PROTECTION PERMIT LEGISLATION

Mr. MUSKIE. Mr. President, during the opening weeks of the new Congress, Members in both Houses, and particularly in this body, have observed over and over again that the legislative branch is losing its power and its place in the sys-

tem of checks and balances to the executive branch. In many areas these complaints and concerns are justified; the President has ignored legislative and appropriations decisions of the Congress at will, arrogating to himself and to his office decisions which are explicitly reserved to the Congress.

But I am also concerned, Mr. President, that the Congress itself is contributing to its own decline as a responsive and effective institution. Increasingly we have found it convenient to delegate to the executive or to the courts decisions for which we are responsible. Increasingly we have legislated procedures and called them policy. And increasingly we have avoided the task we were elected to perform—making tough decisions in areas of public policy which cry out for our attention.

One of the areas of public policy which demands attention we have not given is the development and protection of the Nation's limited land resources. It is true that the Senate has considered and passed legislation to require the States to develop land use policies; but, once again, this legislation would have delegated almost unlimited discretion to the executive and to the States to decide what was good land use and what was bad land use. Once again, the Congress would have passed the buck—with no instructions on what to do with it.

The task of creating policies to regulate land use decisions cannot be left solely to the States or to the executive. The buck stops here—in the Congress. Only here can the Federal interest in the public health and welfare be balanced against private decisions regarding property use. Only here can land use regulatory policies be set that take into account all the conflicting interests and make the appropriate tradeoffs from a national perspective.

There is no question of the need for such a policy and for regulation of land development decisions based on such a policy. In fact, such a regulatory mechanism is required in both the Clean Air Act and the Water Pollution Control Act. Implementation plans and programs under both acts must include, where necessary, land use controls. Uncertain land use policies regarding the development of land resources and the need for effective regulatory procedures also lie at the root of our difficulties in solving the energy crisis, in dealing with transportation problems, and in preserving biologically productive land areas.

Just as Congress has recognized that the problems of air and water pollution respect no State boundaries and demand national solutions, so, too, we are now realizing the national scope of our energy and transportation crises. It is time, however, that we also recognized the national scope of other problems which result directly from our lack of a national policy to regulate our use of limited land resources:

The quality of rural life is increasingly threatened as local citizens are crowded off the land and out of their houses by wealthy vacationers seeking recreational property and rural homes.

Highway construction and urban renewal programs devised without respect for people's lives and communities have robbed city dwellers of open space, recreational opportunities, pleasant surroundings, and often their homes.

Commercial and industrial site selection decisions have transformed and often permanently degraded large areas of land, simply because inadequate consideration was given to the effects of the attendant transportation, energy, housing, and waste treatment needs of the people who would come with the development.

Unplanned development and land use has destroyed flood plains, valuable wetlands, timberlands, and farmlands.

These are national problems; and until we set basic regulatory policy on a national level, these problems will continue to plague us. It is not enough for Congress to say that land use planning is good public policy—though land use planning is essential; and it is not enough to require the States to develop land use plans of their own—though they must act expeditiously to develop such plans. Those kinds of decisions are not really decisions at all; they merely are new applications of the same old, bad habits in failing to cope with yet another pressing issue. Pronouncements of rhetoric have never constituted effective, substantive policy. Nowhere is this truth plainer than in our experiences under the National Environmental Policy Act; although that law has provided some valuable procedural protections, it offers no relief from bad decisions which are a product of good procedure—because it contains no enforceable standards and guidelines against which to measure those decisions.

We should not make the same mistakes in developing national land use regulatory legislation that we have made in other areas; we cannot afford to. We must not sit still and allow the States or the Federal bureaucracy to create fragmented, disoriented, and often contradictory regulatory policies and programs which will permit private, selfish decisions to exacerbate critical national problems and override the public interest.

The bill which I introduce today, the Environmental Protection Permit Act, would require the establishment of regulatory mechanisms at the State level to review private land development decisions, and it would establish in law specific criteria against which to assess those State programs and to permit or deny them to take effect.

Under the provisions of this bill, which would become title VI of the Water Pollution Control Act, the Environmental Protection Agency would be prohibited from making grants for the construction of waste treatment facilities under the Water Pollution Control Act, delegating control of water pollution permit programs to States, or granting extensions of deadlines for meeting air quality standards under the Clean Air Act in any State which does not have an approved program for granting environmental protection permits. This enforcement provision is, of course, subject to refinement, but it recognizes the fact that effective air and water pollution control requires the effective regulation of our limited land resources.

The specific land use policy criteria set forth in this bill are clear statements of the elements of good land use. They are the product of lessons the Subcommittee on Air and Water Pollution has learned from hearings in Machiasport, Maine, and Lake Tahoe, from the development and implementation of the Clean Air Act and the Water Pollution Control Act, and from years of hearings on the economic and social roots of environmental pollution. They are by no means complete in setting forth all the necessary guidelines, but they are a set of criteria from which we can refine an effective set of final guidelines.

The provisions of this bill also reflect beginning efforts which have been made to regulate land use in several States, particularly the State of Maine. In establishing the land use regulation commission in 1969, Maine assumed a position of national leadership in resource analysis and mapping, comprehensive planning, establishment of land use standards and land use districts, and enforcement. The Maine Land Use Regulation Commission establishes standards for and restraints upon the use of land in the unorganized townships of the State, 49 percent of Maine's total land area and more than 10 million acres.

Coupled with the site selection permit program administered by the State's environmental improvement commission, the LURC has given the people of Maine an opportunity to protect their public property rights against private waste.

Nothing is more central to the development of a national growth policy and to the preservation of a livable environment than effective land use planning and regulation. As Dr. George Wald has said:

> There is nothing more valuable in the Cosmos than an acre of land on earth.

Unless we in Congress understand and act on our responsibility to make the hard, tough policy decisions which we were elected to make, we and our children will be witnesses to the defenseless waste of that land.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill together with the bill itself be printed at this point in the RECORD.

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

S. 792

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

SECTION 1. The Federal Water Pollution Control Act is amended by adding at the end thereof a new title to read as follows:

"TITLE VI—ENVIRONMENTAL PROTECTION PERMITS

"SEC. 601(a) The Adminstrator shall not, at any time after June 30, 1975, (1) make any grant in a state in accordance with the provisions of Title II of this Act, (2) approve any state permit program in accordance with the provisions of Section 402 of this Act or

(3) grant any extension of time for achievement of air quality standards in accordance with the provisions of section 110(e) and 110(f) of the Clean Air Act (42 U.S.C. 1857 et seq.), unless at the time of the grant application for a project in such state or at the time of submission by such state of a permit program or a request for extension of time for compliance with air quality standards, that state has in effect an environmental protection permit program approved by the Administrator in accordance with the provisions of this title.

"(b) Any approval of a state permit program in accordance with section 402 of this Act and any extension of the effective date for compliance with air quality standards granted in accordance with subsection (e) or (f) of section 110 of the Clean Air Act for a state shall be suspended where such state does not have, before July 1, 1975, an environmental protection permit program approved by the Administrator in accordance with the provisions of this title, and such suspension shall remain in effect until that state has an approved environmental protection permit program.

"SEC. 602(a)(1) Upon application of a state, the Administrator shall approve a state environmental protection permit program as adequate when he determines that (A) such state has an adequate process for issuing permits, (B) there is an adequate mechanism to oversee and enforce compliance with permit requirements to assure that no proposed development or expansion of capacity of any industrial, commercial or residential facility and no other development or activity which would in any way affect existing utilization of land will occur without an environmental protection permit issued by the state in accordance with the provisions of this title, and (C) in issuing permits, the state will follow the environmental protection criteria specified in subsection (c).

"(2) Approvals of state environmental protection permit programs granted by the Administrator shall be valid for a period not to exceed four years from the date on which approval is granted.

"(3) Application for reapproval, or changes in or amendments to the state environmental protection permit program shall be reviewed and approved by the Administrator in the same manner as initial applications for approval of the state environmental protection permit program.

"(4) Whenever the Administrator determines, after a public hearing, that (A) a state is not administering a program approved under this title in accordance with requirements of this title, or (B) a state has issued any environmental protection permit in violation of the criteria specified in subsection (c) of this section, he shall so notify the state and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the state, and made public, in writing, the reasons for such withdrawal.

"(b) For the purposes of this title, an adequate process for issuing permits shall include (1) a program for developing policies and procedures to implement the environmental protection permit program which shall include:

"(A) adequate opportunity for public hearings during development and revision of the environmental protection permit program in each major population center of the State and at such other places in the State as are necessary to assure that all persons living within the State have adequate opportunity to attend a public hearing on the environmental protection permit program at a place within a reasonable distance from their homes;

"(B) adequate opportunity, on a continuing basis, for participation by the public and the appropriate officials or representatives of local government in development, revision and implementation of the environmental protection permit program;

"(C) processes to review and revise as necessary, on at least a bi-annual basis, guidelines, rules and regulations to implement the environmental protection permit program published by the State or by political subdivisions of the State in cases where the States' responsibilities have been delegated in accordance with the provisions of section 603 of this title;

"(D) a mechanism for coordinating all State programs and all Federal grant-in-aid or loan guarantee programs under which the State or its political subdivisions, or private persons within the State, are receiving assistance to assure that such programs are conducted in a manner consistent with the guidelines, rules and regulations published by the State or its political subdivisions and intended to implement the environmental protection permit program;

"(E) adequate provision to coordinate planning activities of a State with the activities relating to environmental protection permit programs of surrounding States; and

"(F) assurance that the taxation policies of the State and its political subdivisions are consistent with and supportive of the goals of the State environmental protection permit program, and

"(2) Procedures for issuance of individual environmental protection permits which provide that:

"(A) there shall be a public hearing, with adequate notice, or an opportunity for such a hearing, regarding the issuance of each environmental protection permit;

"(B) there shall be an administrative appeals procedure where any person who participated in the public hearing relating to the issuance of the permit can, without the necessity of representation by counsel, challenge a decision to issue or to refuse to issue a permit;

"(C) all information presented to the State or a local government with regard to any application for issuance of a permit shall be available for public inspection at a place designated by the unit of government to which the application for an environmental protection permit is made; and

"(D) decisions relating to applications for environmental protection permits shall be announced publicly at a time and place specified at least 30 days in advance of the announcement.

"(c) The Administrator shall not approve a State environmental protection permit program which does not assure compliance with the following environmental protection criteria:

"(A) public or private development will be permitted only if in the process of development, and in the completed project, the development will not result in violation of emission or effluent limitations, standards or other requirements of the Clean Air Act and this Act;

"(B) industrial, residential or commercial development will not occur on agricultural land of high productivity, as determined on a regional basis by the Secretary of Agriculture, unless specifically approved by the Governor as necessary to provide adequate housing for year-round residents that would not otherwise be available;

"(C) industrial, residential or commercial development will not occur where it would exceed the capacity of existing systems for power and water supply, waste water collection and treatment, solid waste disposal and resource recovery, or transportation, unless such systems are planned for expansion and have adequate financing to support operation and expansion as necessary to meet the demands of the new development without violation of the emission or effluent limitations, standards or other requirements of the Clean Air Act or this Act at any place where such expansion of such systems or any activities relating thereto may occur;

"(D) redevelopment and improvement of existing communities and other developed areas is favored over industrial, commercial, or residential development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas, and that development contrary to these principles shall be allowed only where specifically approved by the Governor as necessary to provide significant and permanent jobs, year-round housing, and educational opportunities for low and middle-income families;

"(E) no industrial or commercial development shall occur only where there exist adequate housing opportunities, on a non-discriminatory basis and within a reasonable distance of any such development, for all persons who are or may be employed in the operation of such development;

"(F) no development shall occur on water-saturated lands such as marshlands, swamps, bogs, estuaries, salt marshes, and other wetlands without replacement of the ecological values provided by such lands;

"(G) there shall be no further commercial, residential or industrial development of the flood plains of the navigable waterways in the state;

"(H) those responsible for making less permeable or impermeable any portion of the landscape will be required to hold or store runoff water or otherwise control runoff from such lands so that it does not reach natural waterways during storm conditions or times of snow-melt;

"(I) to the extent possible, upland watersheds will be maintained for maximum natural water retention;

"(J) utilities, in locating utility lines, shall make maximum possible multiple use of utility rights-of-way; and

"(K) any major residential development will include open space areas sufficient to provide recreational opportunities for all residents of the proposed development.

"(d) A State may exempt from the requirements of an environmental protection permit program any single family residential building constructed by a person on land owned by such person and intended to be his principal residence on a year-round basis, where such person has not, within the previous five-year period, constructed another such residential building which was or would have been eligible for exemption in accordance with the provisions of this subsection.

"SEC. 603. The Administrator may approve as adequate in accordance with the provisions of this title, a State environmental protection permit program which delegates the permit granting responsibility assigned under this title to one or more political subdivisions of a State where such State continues general responsibility for establishing policies for the environmental protection permit program and the Administrator determines that the other responsibilities of the State under this title will be adequately performed.

"SEC. 604(a). The Administrator is authorized to make grants to any unit of local government within a State which, as a result of actions taken to implement the State environmental protection permit program, has suffered a loss of property tax revenues (both real and personal). Grants made under this section may be made for the tax year in which the loss of tax revenue first occurs and for each of the following two years: *Provided, however,* That the grant for any tax year shall not exceed the difference between the annual average of all property tax revenues received by the local government during the three-tax-year period immediately preceeding the date of enactment of this title and the actual property tax revenue received by the local government for the tax year in which the tax loss first occurs

and for each of the two tax years following the year in which the tax loss first occurs.

"(b) Grants under this section may be made only where there has been no reduction in the tax rates and the tax assessment valuation factors employed by the local government in determining its tax valuation and tax rates. Where there has been such a reduction in the tax rate or the tax assessment valuation factors, then, for the purposes of determining the amount of a grant under this section for the year or years in which such reduction in the tax rates or the tax valuation factors is in effect, the Administrator shall use the tax rate and tax assessment valuation factors of the local government in effect at the time of the loss of tax revenues in determining the property tax revenues which would have been received by such local government had such reduction of tax rate or tax assessment valuation factors not occurred.

"SEC. 605. (a) The Administrator is authorized to make grants, upon such terms and conditions as he deems appropriate, for the development and revision of a statewide environmental protection permit program.

"(b) Such grants may be in an amount up to 75 per centum of the cost of establishing and developing and up to one-half of the cost of maintaining and revising the statewide environmental protection permit program: *Provided, however,* That grants under this section may be made to political subdivisions of a State only in those instances where a State has delegated to a political subdivision part or all of its permit granting functions in accordance with the provisions of section 603 of this title.

"SEC. 606. Each department, agency and instrumentality of the executive legislative and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in development of or a change in the use of any land, shall comply with State and local requirements respecting environmental protection, including requirements that permits be obtained, to the same extent that any person is subject to such requirements. The President may exempt any activity of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this title granted during the preceding calendar year, together with his reason for granting each such exemption.

"SEC. 607. Nothing in this title shall be construed to require or authorize that any State environmental protection permit program include provisions to supersede or otherwise avoid the authority of any political subdivision of a State to refuse to permit any development within the area of its jurisdiction.

"SEC. 608. (a) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency, for grants in accordance with the provisions of section 604 of this title, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, $100,000,000 for the fiscal year ending June 30, 1975, and $100,000,000 for the fiscal year ending June 30, 1976.

"(c) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency for implementation of the provisions of this Act, other than section 604 or 605, $25,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976.

"(c) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency for implementation of the provisions of this Act, other than section 604 or 605, $25,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976.

"(d) Sums appropriated in accordance with the provisions of this title shall remain available until expended.

"(e) The Administrator, after public hearings, shall promulgate such regulations as he deems necessary to implement the provisions of this title."

SECTION-BY-SECTION ANALYSIS: ENVIRONMENTAL PROTECTION PERMIT LEGISLATION

This legislation would become Title VI of the Federal Water Pollution Control Act.

Section 601 states that after June 30, 1975, EPA is prohibited from making waste treatment grants or approving state permit programs under the Federal Water Pollution Control Act or granting extensions of deadlines for meeting air quality standards under the Clean Air Act in any state which does not have an approved program for granting environmental protection permits. Further, existing EPA approvals of state permit programs or extensions of air quality standards are suspended in states that do not have approved permit programs by July 1, 1975.

Section 602(a) requires that approval of a state environmental protection permit program be conditioned on the state having (A) an adequate process for issuing permits, (B) procedures to oversee and enforce compliance with permit requirements to assure that no development occurs without environmental protection permit being issued by the state and (C) procedures to assure compliance with the site selection criteria specified in subsection (c). Approvals of state environmental protection permit programs are valid for up to four years, and applications for reapproval, or changes in or amendments to the state environmental protection permit program must be approved by EPA in the same manner as the original permit program.

EPA can revoke a permit when it determines that (A) a state is not administering a program in accordance with the law or (B) a state has issued any environmental protection permit violating criteria specified in subsection (c) and if, after notification of the violation by EPA, the state does not take corrective action within 90 days. EPA cannot withdraw approval of any state program without first notifying the state, and making public, in writing, the reasons for the withdrawal.

Section 602(b) states that an adequate process for issuing permits must include (1) a program for developing policies and procedures to implement the environmental protection permit program which include:

(A) adequate opportunity for public hearings during development and revision of the permit program in each major population center of the state and at such other places as necessary to assure that all persons in the state have adequate opportunity to attend a public hearing on the environmental protection program at a place within a reasonable distance from their homes;

(B) adequate opportunity, on a continuing basis, for participation by the public and local government officials in development, revision and implementation of the permit program;

(C) processes to review and revise as necessary, on at least a bi-annual basis, state and local guidelines, rules and regulations to implement the environmental protection permit program.

(D) a mechanism to coordinate all state programs and all Federal grant-in-aid or loan guarantee programs under which the state or its political subdivisions, or private persons within the state, are receiving assistance, to assure that such programs are conducted in a manner consistent with the requirements of the environmental protection permit program;

(E) coordination of planning activities with the environmental protection permit programs of surrounding states; and

(F) assurance that state and local taxation policies are consistent with and supportive of the goals of the environmental protection permit program; and

(2) Procedures for issuance of individual environmental protection permits which provide

(A) a public hearing, with adequate notice, or an opportunity for such a hearing, regarding the issuance of each environmental protection permit;

(B) an administrative appeals procedure where any person who participated in the public hearing relating to the issuance of the permit can, without the necessity of representation by counsel, challenge a decision to issue or to refuse to issue a permit;

(C) public availability of all information presented to the state or a local government with regard to any application for issuance of a permit; and

(D) public notice, at least 30 days in advance, of the time of announcement of decisions relating to applications for environmental protection permits.

Section 602(c) requires that no state environmental protection permit programs be approved which does not assure compliance with the following environmental protection criteria:

(A) public or private development will not be permitted which can cause violation of the Clean Air Act or the Federal Water Pollution Control Act;

(B) development will not occur on high productivity agricultural land, unless specifically approved by the Governor as necessary to provide adequate housing for year-round residents;

(C) no development will occur that would exceed the capacity of existing systems for power and water supply, waste water collection and treatment, solid waste disposal and resource recovery, or transportation unless such systems are planned for expansion and have adequate financing to support operation and expansion as necessary to meet the demands of the new development without violation of the Clean Air Act or the Federal Water Pollution Control Act at any place where such expansion of such systems or any activities relating thereto may occur;

(D) redevelopment and improvement of existing communities and other developed areas is favored over development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas, with development contrary to these principles allowed only where approved by the Governor as necessary to provide significant and permanent jobs, year-round housing, and educational opportunities for low and middle-income families;

(E) industrial or commercial development will occur only where there is available adequate housing, on a non-discriminatory basis and within a reasonable distance of the development, for all persons who are or may be employed in the operation of the development;

(F) no development will occur on water-saturated lands such as marshlands, swamps, bogs, estuaries, salt marshes, and other wetlands without replacement of the ecological values provided by those lands;

(G) there will be no further commercial, residential or industrial development of the flood plains of navigable waterways;

(H) persons making any portion of the landscape less permeable or impermeable

will be required to hold or store runoff water or otherwise control runoff from such lands so that it does not reach natural waterways during storm conditions or times of snowmelt;

(I) to the extent possible, upland watersheds will be maintained for maximum natural water retention;

(J) utilities, in locating utility lines, will maximize multiple use of utility rights-of-way; and

(K) any major residential development includes open space areas sufficient to provide recreational opportunities for all residents of the proposed development.

Section 602(d) allows states to exempt from the requirements of an environmental protection permit program any single family home constructed by a person on his own land and intended to be his principal residence on a year-round basis, if that person has not, within the previous five years, constructed another similar home.

Section 603 permits delegation of state permit granting responsibilities to local government in the state, where the state continues general responsibility for establishing policies for the environmental protection permit program and the other responsibilities of the state will be adequately performed.

Section 604 authorizes EPA to make grants to any local government which, as a result of actions taken to implement the permit program, has suffered a loss of real or personal property tax revenues. Grants may be made for the tax year in which the loss of revenue first occurs and for each of the following two years, but, that the grant for any tax year cannot exceed the difference between (1) the annual average of all property tax revenues received by the local government in the three years immediately proceeding enactment of this title, and (2) the actual property tax revenue received for the tax year in which the tax loss first occurs and for each of the two succeeding tax years. Grants can be made only where there has been no reduction in tax rates or tax assessment valuation factors. Where there has been such a reduction in the tax rate or the tax assessment valuation factors, EPA must use the tax rate and tax assessment valuation factors in effect at the time of the loss of tax revenues in determining the property tax revenues which would have been received by the local government.

Section 605 authorizes EPA to make grants for the development and revision of statewide environmental protection permit programs.

The grants may cover up to 75% of the cost of establishing and developing and up to one-half of the cost of maintaining and revising the state-wide environmental protection permit program. Grants can be made to political subdivisions only in those instances where a state has delegated to them part or all of its permit issuing functions.

Section 606 requires that Federal agencies (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in development of or a change in the use of any land, must comply with State and local requirements respecting environmental protection, including requirements that permits be obtained, to the same extent that any person is subject to such requirements. The President may exempt any Federal activity only if he determines it to be in the paramount interest of the United States to do so. However, no exemption can be granted due to lack of funds unless the funds have been specifically requested in the budget and the Congress has failed to appropriate them. Exemptions shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President must report to Congress each January all exemptions granted during the preceding calendar year, together with his reason for granting each of the exemptions.

Section 607 provides that nothing in this title is to be construed to require or authorize that any state environmental protection permit program override the authority of any political subdivision of a state to prohibit any development within the area of its jurisdiction.

Section 608(a). For tax loss reimbursement grants there are authorized to be appropriated $100,000,000 for fiscal year 1974, $100,000,000 for fiscal year 1975, and $100,000,000 for fiscal year 1976.

(b) For state program grants there are authorized to be appropriated $100,000,000 for fiscal year 1974, $100,000,000 for fiscal year 1975, and $100,000,000 for fiscal year 1976.

(c) For EPA administration there are authorized to be appropriated $25,000,000 for fiscal year 1974, $25,000,000 for fiscal year 1975, and $25,000,000 for fiscal year 1976.

(d) Authorizes appropriated sums to remain available until spent.

(e) Give EPA authority to publish regulations necessary to implement the law.

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

S. 794. A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes. Referred to the Committee on Labor and Public Welfare.

COLLECTIVE BARGAINING RIGHTS FOR EMPLOYEES OF NONPROFIT HOSPITALS

Mr. CRANSTON. Mr. President, I introduce today a bill which I believe is vitally needed to remedy the denial of collective bargaining rights to employees of nonprofit hospitals which are guaranteed to other American workers under the National Labor Relations Act. I am honored to be joined in introducing this measure by my colleague from New York (Mr. JAVITS).

The bill I am offering is short and simple. It removes the present exclusion of employees on nonprofit private hospitals from the coverage of the National Labor Relations Act. But while it is short and simple in appearance, its impact upon the livelihood of many of the workers in nonprofit private hospitals is great. Enactment of this bill will assure these workers the protection of an orderly procedure to participate effectively in their labor-management relations, for two and a half decades.

Testimony presented last Congress before the Senate Labor Subcommittee of the Committee on Labor and Public Welfare on legislation (H.R. 11357) to obtain this protection for employees of nonprofit hospitals presented strong arguments for this measure.

It dramatized the plight of thousands of men and women working for nonprofit hospitals without the protection and without the benefit of group representation in labor negotiations with their employers while the right of employees of proprietary hospitals are protected by the National Labor Relations Act.

I have always supported the rights of workers to bargain collectively through a union they choose, with their employers.

Without such protections, workers have little recourse but to depend on the benevolence of their employers to provide adequate pay.

Fundamentally, this principle is equally applicable to hospital employees with respect to the application of NLRA protections. I see no reason to differentiate between proprietary hospitals and nonprofit hospitals. The services provided by each are the same and the demands made upon the employees are the same. The only difference is in the manner of distribution of the revenues.

Thus, I feel it is an inequitable distinction that provides NLRA protection for the collective-bargaining efforts of employees of one type of hospital while the collective-bargaining efforts of the employees of nonprofit hospitals are not protected. I feel that we should protect them all; that we should support the right of all hospital workers to bargain collectively with their employers.

In the six-county area around Los Angeles there are 243 hospitals, 70 percent of which are nonprofit. These nonprofit hospitals employ more than 43,326 men and women. Nationally, more than 1,427,000 workers in 3,600 hospitals—half of the hospitals in the Nation—are presently denied the right to bargain collectively under NLRB procedures.

Mr. President, at this point I ask unanimous consent that there be printed in the RECORD at this point the testimony of Mr. George Hardy, international president of the Service Employees International Union, AFL–CIO, before the Senate Subcommittee on Labor at hearings during the second session of the 92d Congress on H.R. 11357, a House-passed bill to bring nonprofit hospitals under the National Labor Relations Act.

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

TESTIMONY OF GEORGE HARDY

Mr. Chairman, I am George Hardy, international president of Service Employees International Union, AFL–CIO. We represent a half-million members in the service industries.

Among our members, we represent more than 125,000 workers in the health-care field. These workers and many thousands of other workers are told that despite the fact that the employees of almost every other nonprofit institution are covered by the National Labor Relations Act, including nonprofit nursing homes and employees of nonprofit colleges, these workers in nonprofit hospitals cannot use the National Labor Relations Board procedures.

The bill before your committee, H.R. 11357, merely deletes this exclusion.

Employers of nonprofit hospital employees are not required by law to recognize or bargain with organizations such as Service Employees International Union representing such employees.

In many instances, hospitals have voluntarily chosen to recognize and bargain with a union. When the hospital employers refuse however, employees are often forced to strike; not for better wages or conditions or fringe benefits, but merely to obtain recognition. If the bill before us becomes law, employers, employees, and all others involved, will benefit therefrom.

We have experienced many recognition strikes in attempting to represent the workers in nonprofit hospitals. We have succeeded in gaining recognition as the result of many strikes; and sometimes, it takes a very long time.

In Cleveland a few years ago, our local union organized the 450 workers at Saint Luke's Methodist Hospital. We then asked the hospital to recognize us as the legitimate representative of these workers.

The hospital administrator refused to sit

down with us. When we strike a hospital in a case such as this, we advertise to all patients and doctors and everybody involved prior to the strike that there is going to be a strike. We did this at Saint Luke's Methodist Hospital.

If necessary, we even furnish ambulances to remove any patients that should be moved out of the hospital. When we are forced to strike, we don't say, "All right, we will strike you tomorrow morning," but we give ample notice and generally put a sign in front of the hospital giving the information exactly when the strike will take place.

We were finally forced to strike Saint Luke's for recognition and this strike lasted 11 months.

Finally, at the end of the 11 months, Mayor Stokes promised passage of a collective bargaining ordinance for nonprofit hospitals; and Saint Luke's finally recognized our local union.

We also had another strike for recognition in 1969 that lasted 33 months. This one was at Ingleside Hospital in Cleveland. There were strikes for recognition at the famous Cedars of Lebanon Hospital in Los Angeles, the Wesley Memorial Hospital in Chicago, and at many other hospitals.

It seems to me that it is a simple matter of justice that the employees of nonprofit hospitals should be permitted to use the protections of the National Labor Relations Act.

Hospital employees should no longer be denied the same legal rights as employees in other industries.

Coverage under the provisions of the National Labor Relations Act would provide a peaceful method for employees to obtain recognition from their employer.

As you know, the Secretary of Labor, James Hodgson, said in a letter to Chairman Perkins of the House Education and Labor Committee on July 19, 1972:

"In many instances, lack of ground rules for union recognition and collective bargaining in this sector has resulted in uncontrolled tests of strength in which the public as well as the parties suffer heavily. These issues will continue to arise probably with increasing frequency. It is far better that they should be resolved through the orderly procedures of the National Labor Relations Act than through bitter and wasteful confrontations."

The exemption has not prevented organization when employees have wished to organize. H.R. 11357 will eliminate the major cause for strikes affecting hospitals that take place on grounds of failure to grant recognition.

We urge your committee to report this bill favorably.

Mr. CRANSTON. Mr. President, Mr. Hardy's testimony shows clearly that NLRA coverage of non-profit hospital employees will be of ultimate benefit to the hospitals, employees and, most important, the patients involved.

Mr. President, I would like to close by urging the support of my colleagues for this legislation. I believe it is a vital remedy for the denial of basic rights to employees of non-profit hospitals that are guaranteed to other American workers under the National Labor Relations Act. It offers them simple justice in securing the full benefits of our economic and social institutions.

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

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

S. 794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(2) of the National Labor Relations Act is amended by striking out "or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual."

By Mr. PELL (for himself, Mr. EAGLETON, Mr. MONDALE, Mr. TAFT, and Mr. JAVITS):

S. 795. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. PELL. Mr. President, I introduce for reference to the appropriate committee a bill which will extend the National Foundation on the Arts and the Humanities for a period of 3 years at $200 million for fiscal 1974, $300 million for fiscal 1975, and $400 million for fiscal 1976.

As chairman, since its inception, of the Special Subcommittee on Arts and Humanities of the Senate Committee on Labor and Public Welfare, it has been my good fortune to see the concept of Federal support for the arts and humanities become a reality. Initially, through passage of the National Foundation on the Arts and the Humanities Act in 1965, and, with its subsequent reauthorization on two separate occasions, this type of Federal endeavor has gathered increasing congressional support. Since 1965, the Endowment for the Arts, first under the direction of Roger Stevens and then Miss Nancy Hanks, and the Endowment for the Humanities, first under Henry Allen Moc, then Barnaby Keeney and then Ronald Berman, have grown into viable institutions fully meeting the expectations of we who drafted the original legislation.

Since 1965, the endowments have grown in both authorizations and appropriations.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a table showing the history of authorizations and appropriations through fiscal year 1973 for the National Foundation on the Arts and Humanities.

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

HISTORY OF AUTHORIZATIONS AND APPROPRIATIONS THROUGH FISCAL YEAR 1973—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

	Arts		Humanities	
	Authorization	Appropriation	Authorization	Appropriation
Fiscal 1966:				
Program	$5,000,000	$2,500,000	$5,000,000	$2,500,000
Funds to match private donations	2,250,000	34,308	5,000,000	
Subtotal	7,250,000	2,534,308	10,000,000	2,500,000
Fiscal 1967:				
Programs	5,000,000	4,000,000	5,000,000	2,000,000
State councils	2,750,000	2,000,000		
Funds to match private donations	2,250,000	1,965,692	5,000,000	106,278
Subtotal	10,000,000	7,965,692	10,000,000	2,106,278
Fiscal 1968:				
Program	5,000,000	4,500,000	5,000,000	3,500,000
State councils	2,750,000	2,000,000		
Funds to match private donations	2,250,000	674,291	5,000,000	325,257
Subtotal	10,000,000	7,174,291	10,000,000	3,825,257
Fiscal 1969:				
Program	6,000,000	3,700,000	8,000,000	3,700,000
State councils	2,000,000	1,700,000		
Funds to match private donations	3,375,000	2,356,875	3,375,000	1,262,473
Subtotal	11,375,000	7,756,875	11,375,000	4,962,473
Fiscal 1970:				
Program	6,500,000	4,250,000	9,000,000	6,050,000
State councils	2,500,000	2,000,000		
Funds to match private donations	3,375,000	2,000,000	3,375,000	2,000,000
Subtotal	12,375,000	8,250,000	12,375,000	8,050,000
Fiscal 1971:				
Program	$12,875,000	$8,465,000	$17,000,000	$11,060,000
State councils	4,125,000	4,125,000		
Funds to match private donations	3,000,000	2,500,000	3,000,000	2,500,000
Subtotal	20,000,000	15,090,000	20,000,000	13,560,000
Fiscal 1972:				
Program	21,000,000	20,750,000	26,500,000	24,500,000
State councils	5,500,000	5,500,000		
Funds to match private donations	3,500,000	3,500,000	3,500,000	3,500,000
Subtotal	30,000,000	29,750,000	30,000,000	28,000,000
Fiscal 1973:				
Program	28,625,000	27,825,000	35,500,000	34,500,000
State councils	6,875,000	6,875,000		
Funds to match private donations	4,500,000	3,500,000	4,500,000	3,500,000
Subtotal	40,000,000	38,200,000	40,000,000	38,000,000
Total	141,000,000	116,721,166	143,750,000	101,004,008
Private donations		16,548,548		13,194,000
Total, Office of Education		1,000,000		1,000,000
Transfer, National Museum Act funds		100,000		100,000
Total, available for obligation		134,369,714		115,298,008

The arts and humanities program is aimed at helping to create a climate in which these two most important and related cultural areas may flourish. I believe that the Arts Endowment and the Humanities Endowment have made great progress in fostering this climate.

When we consider the lack of our Government's support for the arts and its relative paucity of emphasis on the humanities and on the contributions of our Nation's scholars prior to enactment of this legislation in 1965, and when we look at the wide variety of programs both endowments—guided by their eminently qualified private citizens councils—have initiated, we can see how much this legislation has advanced our Nation's well-being.

Young artists and scholars have been aided, the more established ones have been given national recognition and encouragement to pursue their work, innovative programs have stemmed from the knowledge and wisdom of the two councils and from the leadership the chairmen have provided. Great art organizations in dire financial need have been assisted or rescued and given new ability to continue and improve. Matching grant principles of funding have served to engender new sources of private support and are responsible for new partnerships between Government and the cultural community.

Before this law came into being, only a handful of States had any sort of program to support the arts. Now each State has an established State art agency, growing through matching Federal funds and bringing increasing encouragement to the development of the arts at community and local levels; and the Humanities Endowment is also working with the States in regional areas.

Private citizen groups throughout the country have lauded this whole program as being of essential and central value to our Nation's future.

As the Senate sponsor of the original arts and humanities legislation, it was my pleasure to forecast such possibilities, and it has been my pleasure to see them come at least to partial fruition.

Indeed, we have witnessed the genesis and growth of the climate we sought to help create. Though "the quality of life" is an often used phrase, it is at the very basis of this legislation. Only in such a climate can our artists and scholars best contribute their talents to our people. And it is in terms of this climate that we should think of our bicentennial—not just as a goal in itself, but as a springboard toward the third century of our Nation's life and future centuries. In my view, only in these terms does an actual bicentennial celebration relate to the long-range work of the arts and humanities program.

If a climate for the encouragement of our cultural well-being has been so assisted, and if it has grown in meaning and effectiveness—as I so strongly believe it has—now it should be allowed to advance toward its full potentials, so that we can truly take our place among the leading civilizations of the world, which throughout history have considered that these cultural areas have an abiding importance and value. History has judged leading civilizations in these terms, and history will judge our own civilization as it further develops in this fashion.

Let me say in particular that I am especially pleased that Senator JAVITS is cosponsoring this legislation. He was a pioneer in this area long before I became involved myself. As we do now, he and I have joined together in the past, and at the inception of this legislation, to make possible the creation of the arts and humanities program and to reauthorize its advancement.

It is my understanding that some thought has been given to utilizing the services of both the Humanities and Arts Endowments in the bicentennial celebration. I will not at this time go into the shortcomings of the present Bicentennial Commission. These are known to us all. I do feel that an attempt to involve the endowments directly in the funding of the bicentennial program could well be detrimental to their basic programs. Put simply, I would hate to see them tarnished by the same brush that has so sullied the reputation of the Bicentennial Commission and confused planing to date.

What is more important is the long-range effect which such an action can have on the endowments. I believe that the funding of specific commemorative celebrations could well conflict with the goal of the endowments, namely the encouragement of long-range quality in their respective fields. We must admit that a bicentennial celebration carries implicitly with it the burden of some political interest and possibly preset allocation of funds to each State or area—an approach inconsistent with the history and purpose of the endowments.

How do we balance a specialized approach to a bicentennial celebration with the quest for quality of the endowments? I expect to explore the question of the endowments' participation in funding of the bicentennial activity during hearings on this legislation.

In any event, I am opposed to the use of funds authorized and appropriated for the regular purposes of the endowments, in ways inconsistent with those broad and long-range purposes. In my view, any funds utilized for a bicentennial celebration should come from a separate authorization and appropriation.

By Mr. PELL:

S. 796. A bill to improve museum services. Referred to the Committee on Labor and Public Welfare.

Mr. PELL. Mr. President, I am introducing at this time the Museum Services Act. The arts and humanities endowments have done an outstanding job servicing museums within the limited scope that the enabling legislation allows, but I believe that the problems of museums are so extensive and varied that a separate program should be instituted for them.

Presently museums are eligible for funds from several Federal Government sources. The Smithsonian Institution, under the National Museum Act, provides technical assistance, a function it is uniquely qualified to fulfill. Those of us who have studied the problems confronted by museums believe that the arts and humanities endowments should not, given their limited scope and funding, utilize those funds for bricks and mortar, for renovation, new construction—for physical facilities for museums.

The proposed Museum Services Act will provide an across-the-board program of support such as is now available to libraries. This assistance would become the base for a variety of supportive programs of essential value to our Nation's museums.

From my first years in this body, I have seen the concept of Federal aid to the arts and humanities grow from an idea to a viable, publicly supported, quality program, as I have outlined previously. Yet, every study concerned with the future of our Nation's cultural activities reports that they remain in danger. Our per capita expenditure for this type of program compares unfavorably with other civilized nations. When we consider the gross national product of this country, the portion devoted to the support of cultural activities is minimal.

The legislation I am introducing today will not meet the underlying financial stress being faced by the cultural community. It will, however, provide an increased level of support throughout the Nation and perhaps what is more important, maintain, and increase the climate which will be conducive to the development of our cultural growth.

By Mr. BEALL (for himself, Mr. CASE, Mr. CRANSTON, Mr. DOMINICK, Mr. EAGLETON, Mr. FANNIN, Mr. GOLDWATER, Mr. GRAVEL, Mr. HATFIELD, Mr. HUMPHREY, Mr. JAVITS, Mr. MATHIAS, Mr. METCALF, Mr. RANDOLPH, and Mr. SCOTT of Pennsylvania):

S. 797. A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Md., and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such system if such study demonstrates their feasibility. Referred to the Committee on Commerce.

BICENTENNIAL ADVANCED TECHNOLOGY TRANSPORTATION SYSTEM DEMONSTRATION ACT

Mr. BEALL. Mr. President, along with 14 other Members of the Senate, I introduce the Bicentennial Advanced Technology Transportation System Demonstration Act. Senators cosponsoring this measure with me are: CASE, CRANSTON, DOMINICK, EAGLETON, FANNIN, GOLDWATER, GRAVEL, HATFIELD, HUMPHREY, JAVITS, MATHIAS, METCALF, RANDOLPH, and SCOTT of Pennsylvania.

This bill, identical to S. 4023, introduced on September 25 of last year, would authorize the Secretary of Transportation to undertake a feasibility study of a combined and coordinated land and water transportation system consisting of a tracked air cushion vehicle, or other

high-speed ground transportation system, operating between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk in Virginia. The feasibility study, which is to be completed no later than 9 months after enactment, will determine the feasibility, social advisability, economic impact, and economic practicability of the marine and land transportation system.

During this investigation, the Secretary of Transportation is expected to consult closely with the State and local governments.

This demonstration futuristic transportation system in the Nation's Capital area will provide the highest visibility for advanced intermodal transportation systems available to large numbers of people at high speed. At the same time, it will link these most historical significant areas of our country with the time of the bicentennial celebration.

Mr. President, on December 7, 1972, the Commerce Subcommittee on Surface Transportation held an all day hearing on this proposal. I want to thank Chairman MAGNUSON; Senator COTTON, the ranking minority member of the committee; and Senator HARTKE, the chairman of the Surface Transportation Subcommittee, for scheduling the hearing. I also want to thank Tom Allison, committee counsel, for his outstanding help and assistance. I had the pleasure of presiding over this hearing which indicated strong and broad support for the proposal and emphasized the necessity for prompt action by the Congress if this futuristic transportation system were going to be in place by the bicentennial.

I was aware of the time problem when the bill was initially introduced. That is why I drafted the original bill, not only to authorize the feasibility study, but also to authorize the construction of the system, if the study demonstrated its feasibility and the Secretary of Transportation recommended the establishment of all or part of the system.

I believe this procedure is necessary because of the time problem. Congress, of course, would have the final say, following the completion of the feasibility study, through the appropriations process.

Last summer, the Washington area on a number of occasions suffered under a blanket of pollution. Fortunately, to the great relief of the area residents, nature came to our rescue and the pollution was pushed away. In addition, traffic congestion continues to plague our citizens as they inch their way to work each day. This combination of pollution and congestion here, and in other metropolitan areas, are daily reminders of the desperate need to accelerate the Nation's search for alternatives and better methods of moving citizens, particularly in population centers.

Also, in 3 years the Nation will celebrate its 200th birthday. During this bicentennial observation, over 40 million visitors are expected to come to the Nation's Capital area. I believe the bicentennial event and the transportation needs of the Nation combine to give us a unique opportunity to create a transportation showplace that will provide the many visitors to the Capital area with an exciting means of seeing the historical cities and sights of the region, as well as the opportunity to provide a practical demonstration of a technology advanced intermodal transportation system which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow.

Historically, transportation has not only played an important role in the development of this Nation, but has also figured importantly in major world expositions throughout the last of the century, particularly when the definitions broadened as it should be to include the provision for transportation arteries sufficient to handle the traffic generated by the world exposition.

A study of such major world expositions indicate that numerous permanent facilities were designed and constructed in time to serve these events and they then became integral features of the areas transportation network. As early as 1885, the world renowned Champs d'Elysses was massively redesigned and enlarged to service the Paris Fair of that year. More recently, the 1962 Seattle Fair brought a successful monorail system to that city. The monorail was immensely successful as a public attraction and service, so that its full cost of construction, $3.5 million was amortized during the exposition. Today the monorail remains as a link and an attraction, primarily benefiting tourist and convention attendees who use the Seattle center facilities. The 1967 Montreal Expo resulted in an entirely new metro being completed and the 1968 Mexico City Olympic games served as a catalyst for the installation of a new subway system and highways. These are but a few of the significant "spillovers" from these events, and all still remain to serve the people of their respective cities. The recent Transpo indicated the public and Nation's interest in transportation.

Few would deny that we desperately need breakthroughs in the transportation area. A tracked air cushion vehicle operating between the District of Columbia area and Annapolis in conjunction with a high-speed marine vessel between the Baltimore-Annapolis area and the Williamsburg area will permit American citizens and our many foreign visitors to travel in the transportation of tomorrow to the historical sights of this region, after which they will be allowed to walk in and enjoy the rich history and heritage of this Nation.

Our forefathers in 1776 thought "big" in terms of their "vision" for this Nation. It behooves us nearly 200 years later to have the same vision and the same imaginations. I believe that the demonstration of a transportation system of tomorrow is a project that will capture the imagination of the American public and not only serve as a practical and exciting means of moving many bicentennial visitors, but also help to catapult transportation into the 21st century.

Mr. President, I hope the Commerce Committee and the Congress will take early and favorable action on this measure, for time is of essence if we are to complete the project by the bicentennial.

Mr. President, I ask unanimous consent that the full text of the bill be printed at this point in the RECORD. Also, I ask unanimous consent that the more detailed statement I made last year when I introduced this same proposal be printed in the RECORD.

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

S. 797

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 "Bicentennial Advanced Technology Transportation System Demonstration Act".

SEC. 2. (a) For the purpose of providing the millions of citizens of the United States and foreign nations who will visit the National Capital area during the Bicentennial of American Independence celebration with a pleasant, efficient, and unique way of seeing the historic cities and sights of such area and providing practical demonstrations of technologically advanced transportation systems which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow, the Secretary of Transportation is hereby authorized and directed to make an investigation and study for the purposes of determining the feasibility, social advisability, environmental impact, and economic practicability of (1) a tracked air-cushioned vehicle or other high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, with appropriate intermediate stops, and (2) a surface effect vessel or other high-speed marine transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

(b) In conducting such investigation and study, the Secretary—

(1) shall consult with appropriate Federal, State, local, and District of Columbia agencies; and

(2) may enter into contracts or other agreements with public or private agencies, institutions, organizations, corporations, or individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) The Secretary shall report the results of such investigation and study together with his recommendations to the President and the Congress no later than nine months after the enactment of this Act.

SEC. 3. If after carrying out the investigation and study pursuant to section 2, the Secretary of Transportation recommends the establishment of either the transportation system described in subsection (a)(1) or (a)(2) of such section or both such systems, he may, to the extent funds are appropriated for the purpose of this section, enter into such contracts and other arrangements as necessary for the construction and operation of such system or systems, except that the system described in such subsection (a)(1) may not be constructed unless the State of Maryland furnishes the necessary rights-of-way, to the extent such rights-of-way are presently owned by such State within existing highway alinements or acquired by such State with funds authorized under this Act and determined usable for such system by the Secretary of Transportation.

SEC. 4. There are authorized to be appropriated such amounts as are necessary to carry out the provisions of this Act.

[From the CONGRESSIONAL RECORD, Sept. 25, 1972]

By Mr. BEALL. A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, D.C., and Annapolis, Md., and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such systems if such study demonstrates their feasibility. Referred to the Committee on Commerce.

Mr. BEALL. Mr. President, for myself and 14 other Members of the Senate, I introduce the Bicentennial Advanced Technology Transportation System Demonstration Act.

This bill authorizes the Secretary of Transportation to undertake a feasibility study of a combined and coordinated land and water transportation system consisting of a tracked air cushion vehicle (TACV), or other high-speed ground transportation system, operating between Washington, D.C., and Annapolis, Md., and a surface effect ship, or other high-speed marine transportation system, operating between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia. This demonstration project in the Nation's Capital area will provide the highest visibility for the type of advanced intermodal transportation systems available to move large numbers of people at high speeds.

At the same time it will link these most historically significant areas of our country at the time of the bicentennial celebration. Since time is of the essence if this innovative transportation system is to be operational for the bicentennial observances, the bill also authorizes the construction of the system if the study demonstrates its feasibility, and if the Secretary recommends the establishment of all or part of the system. The study, which is to be completed no later than 9 months after the bill's enactment, will determine the feasibility, social advisability, environmental impact, and economic practicability of the vehicles.

During this investigation study, the Secretary is expected to consult with the appropriate State and local governments. Since Maryland would be heavily involved and has already expressed its interest and support for this project, Maryland certainly should be consulted each step along the way in its development. I hasten to point out that although construction is authorized if the study proves the project's feasibility, Congress would still have the final say through the appropriations process.

The Washington area this summer on a number of occasions has suffered under a blanket of pollution resulting in a number of "emergency alerts" for the area. Each occasion, the pollution was pushed away to the great relief of the area's residents. In addition, traffic congestion continues to plague our citizens as they inch their way to and from work. Both these pollution incidents and the daily highway congestion drive home the need to accelerate our search for alternative and better ways of moving citizens, particularly in metropolitan areas.

In 4 years the Nation will celebrate its 200th birthday. During this bicentennial celebration the Washington area will play host to millions of Americans and foreign visitors who will come to the Capitol City.

The bicentennial events and the transportation needs of the Nation combine to give us a unique opportunity to create a transportation showplace that will provide the many visitors to the Capitol area with an exciting means of seeing the historical cities and sights of the region, as well as the opportunity to provide a practical demonstration of a technologically advanced transportation system which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow.

The principal focus of the high-speed ground transportation system study between the Nation's Capitol and Maryland's charming capitol of Annapolis will be the tracked air cushioned vehicle—TACV—although the Secretary is authorized to examine the feasibility of other surface transportation systems as he deems desirable.

The TACV is an electrically powered, high-speed vehicle capable of speeds 150 miles per hour or more and has a passenger capacity of 60 or more. The TACV vehicle has two power or propulsion systems. The first forces air downward against a fixed track and is a levitation device which allows the vehicle to float a fraction of an inch above the guideway. This enables the vehicle to have a cushioned, virtually vibration-free operation. The second power system provides the forward thrust. The TACV vehicle can operate on a fixed track on a guideway which can be located at ground level; raised as with a viaduct or pylons; or below ground.

The Department of Transportation and the other transportation agencies around the world are placing great emphasis on the development of the TACV as the ground vehicle of the future. The French developed the initial technology and have one 70 seat vehicle in operation and a 13-mile viaduct test track near Orleans. A number of American firms are developing prototypes and the United States is presently constructing a TACV test site in Pueblo, Colo.

The technology for the TACV is considered to be at hand and only engineering application problems need to be solved. It is generally agreed, however, that if TACV is to be a viable alternative in a comprehensive urban transportation system, demonstration projects must be carried out. What better place to carry out the project than in the Nation's Capitol area? What better time to do the project than during the Nation's observation of its 200th birthday? By such a demonstration the American public and our foreign visitors will see and we will test the desirable characteristics of the TACV vehicle, such as ride quality, noise level, and safe high-speed operation.

In addition, data such as the performance, reliance, safety, construction, ability, and environmental impact of the vehicle will be provided by a practical demonstration. As previously indicated, the TACV will operate between Washington, D.C., and Annapolis, Md. The vehicle could begin in the city or perhaps at a Metro subway station such as at the new town of Fort Lincoln, or Ardmore, or New Carrollton, a growing transportation center, and then speed down the median strip of Route 50 to Annapolis.

Mr. President, these examples I cited are not meant to specify the stops or the route for the feasibility study, for this will be the function of the study. It does represent some of the suggestions of individuals and the AFL–CIO Maritime Committee which has devoted considerable time and attention to this endeavor.

The second part of this proposal calls for a feasibility study of a surface effect ship or other high-speed marine vessel operating between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

Mr. President, when we examine many of the Nation's largest cities, we find that many areas are located on harbors or major waterways. This really is not too surprising when we consider that during the period when many of America's cities were evolving, water transportation was the predominate mode of transportation.

As a matter of fact, 60 percent of the population of the country live adjacent to water and nine out of the 15 largest cities are coastal. Many transportation experts feel our waterways have the potential for helping to solve our transportation problems and that they could play a major role in easing the traffic problems of the commuter. If such were the case, it may be possible to use free waterways rather than build more expensive freeways.

There are also many experts who believe that we are on the threshold of revolutionary developments in marine transportation, both for cargo and passenger purposes. In addition, these developments are of the utmost interest to military.

The second part of the feasibility study will concentrate on the surface effect vessel, hydrofoils, and other high-speed marine transportation. The surface effect ship includes hovercraft and sidewall craft which employ cushions of air to produce lift. The hydrofoils depend on dynamic fuel lift and are either surface or fully emerged.

There is a growing interest in this area both in the United States and throughout the world. I will discuss a number of vessels under development as well as some that have been in operation to date. This is not an exhaustive examination but merely attempts to convey to my colleagues a feeling for present developments and activity.

First, military experts foresee these developments resulting in a new family of oceangoing vessels operating at speeds of 100 knots or more. This compares with the speed of 40 knots of a modern destroyer. The military has already tested air cushion vehicles in Vietnam and elsewhere.

Mr. President, turning now to domestic developments, both the Bell Aerospace Corp. and the Airjet General Corp. have developed prototype vessels. These experimental vessels are capable of speeds of 80 knots.

Bell has constructed the *Voyageur* vessel, a high-speed multipurpose air cushion vessel. Two of these vessels have been constructed and are currently completing engineering and certification tests on Lake Ontario, near Toronto.

The *Voyageur* has a basic flat bed which permits addition of superstructure and equipment to meet various needs, including the addition of a passenger cabin which would give the vessel a capability of carrying 144 passengers.

Boeing has also developed a most interesting and attractive marine vessel called the jetfoil, an advanced hydrofoil, which the company's literature heralds as a "new dimension in transportation." The jetfoil would have a cruise speed of 45 knots and a capacity of 250 commuter passengers or 190 passengers with luggage. Boeing says its jetfoil is safe, comfortable, and a "good neighbor" since noise and pollution levels are well below the strict pollution levels set for 1975 cars. The company's literature even assures that the jetfoil "leaves no wake to destruct the shorelines or small boats."

The British Rails Hovercraft Co., Seaspeed, has been operating 30 minute regular runs to the Isle of Wight and across the English Channel using giant car ferry types. The latter has become profitable. Other vessels are being used on oil and seismic surveys.

The British Corp. is now producing a craft which in basic form will accommodate 170 passengers and 34 cars. Variations on this model will be capable of handling 256 passengers and 30 cars or a straight commuter type vessel carrying 605 passengers.

Mr. President, the trip from Annapolis down the Chesapeake Bay will surely be an unforgettable experience. It is hoped that pollution-free buses will pick up the visitors after they have disembarked in the Virginia area and transport them to historic Williamsburg. In addition, it is hoped that express bus connections will be provided to the Eastern Shore.

Few would deny that we desperately need breakthroughs in the transportation area. A

TACV operating between the District of Columbia area and Annapolis in conjunction with a high-speed marine vessel between the Baltimore-Annapolis area and the Williamsburg area will permit American citizens and our many foreign visitors to travel in the transportation of tomorrow to these historic sights, after which they will be allowed to walk in and enjoy the rich history and heritage of this Nation.

Mr. President, I suspect there are some who will feel that it is preposterous to have marine and land vessels traveling at such lightning speeds. It is interesting to note that textbooks up to shortly before the Civil War never made reference to metal vessels. Why? Everyone knew that iron would not float and that even if it would, its effect on the compass would be fatal. Furthermore, iron could not withstand the corrosion and fouling of the hostile marine environment. These arguments all fell by the wayside as the first argument against the nonfloatability of iron was demonstrated a fallacy.

Today even with our achievements in space and other scientific endeavors, I am certain that one could list a string of arguments why this marine-land transportation system will not succeed. But it is risky business to bet against our Nation and its scientific community. Indeed, the history of our country chronicles the accomplishment of what was thought to be impossible.

I believe that the transportation needs of this country and the upcoming celebration coincide to provide us with an opportunity to push developments of this technologically advanced land-water transportation system. I strongly urge early and favorable action on this measure, and I am certainly encouraged by the great interest and support given by Senators thus far, as indicated by the large number of my colleagues who have consented to cosponsor the legislation.

Mr. President, before closing, I want to thank the AFL–CIO maritime committee for advancing this forward-looking and imaginative proposal. I want to give special thanks to Mr. Hoyt Haddock and Mr. Joseph Salzano who have devoted countless hours on this project.

By Mr. BURDICK (for himself, Mr. BELLMON, Mr. BROCK, Mr. CRANSTON, Mr. HATHAWAY, Mr. HART, Mr. HUGHES, Mr. HUMPHREY, Mr. MANSFIELD, Mr. MCGEE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. PERCY, Mr. SCOTT of Pennsylvania, Mr. STEVENSON, Mr. SYMINGTON, Mr. TUNNEY, and Mr. ABOUREZK):

S. 798. A bill to reduce recidivism by providing community-centered programs of supervision and services for persons charged with offenses against the United States, and for other purposes. Referred to the Committee on the Judiciary.

COMMUNITY SUPERVISION AND SERVICES ACT

Mr. BURDICK. Mr. President, our criminal justice system is facing one of its most difficult periods in our history. It is laboring under a load of increasing crime, and this has come in an era when the public expects more of the system. To meet these challenges and responsibilities for the 1970's, new steps are needed that will make the criminal justice system more effective.

The legislation which I introduce today, the Community Supervision and Services Act, provides one such step. It would enable the Federal criminal justice system to:

Improve the deterrent effect of the criminal law by clearing court backlogs of criminal cases;

Provide for disposition of some criminal cases at less cost to the public than can currently be done; and

Give added alternatives that will enable judges and prosecutors to fit the handling of more cases to the circumstances, with the hope that the individual will not return to crime.

This legislation recognizes the discretion of the prosecuting attorney not to prosecute when the ends of justice are not best served by the full force of the criminal law. This diversion is not a new concept in criminal law, but this legislation is needed to give it form and structure. It would also set standards of performance for criminal defendants, and provide for the necessary tools of supervision as well as other needed services such as vocational training and job placement. The result will be better protection for society.

Pretrial diversion is not a form of leniency on the part of court or prosecutor. Rather, it requires a high level of community supervision—a level well above that available in many community correctional programs today. The supervision and services are necessary to insure the public's safety and to improve the chances for rehabilitation of offenders.

Pretrial diversion is no panacea for the criminal justice system. It is simply an added tool which can have significant benefits in certain cases. It can improve the likelihood that some individuals never need be brought before the criminal justice system again.

Pretrial diversion is a simple concept, and would work in this way:

First. At the time of arrest, or soon after, individuals would be screened to determine if there are any who might benefit from diversion to an intensive program of supervision. Prior to these interviews, individuals with patterns of repeated criminal violations or assaultive and violent behavior would have been dropped from consideration.

Second. When a defendant has been found who would fit the program criteria, and treatment resources are available for him, the U.S. attorney would be asked if he would agree to a diversion period. If the U.S. attorney does not agree, the prosecution would continue in the normal fashion.

If the U.S. attorney does agree, the individual would be asked if he would volunteer to participate in the program, which would include waiving the statute of limitations and his right to speedy trial for a period of time. The individual would agree to a plan for himself, which would include such goals as learning a job skill, getting a job, attending school or college, et cetera.

Third. The U.S. attorney's recommendation and the individual's plan and voluntary agreement would then be presented to the committing officer of the U.S. court at the time of the bail hearing, or later. If agreed to, the criminal prosecution would be held in abeyance while the individual pursues his program.

Fourth. If the individual who has been diverted fails to live up to his agreement, or if he gets into further trouble or appears headed toward trouble, he may be immediately terminated from the program by the U.S. attorney. In this case, the full criminal prosecution starts up again where it left off. The individual may withdraw at any time, and prosecution would be resumed.

Fifth. If an individual lives up to his agreement, and if he is demonstrating a lawful lifestyle, the diversion period can be continued, up to a maximum of 1 year. If the individual successfully completes his obligations, he can have the charges against him dismissed. However, the U.S. attorney retains the power to resume prosecution up to the moment the charges are dismissed.

Pretrial diversion will bring fiscal economy to the Federal criminal justice system in two ways. First, the court processing involved in diversion of a defendant is considerably less than most other types of disposition, including entering a bargained plea of guilty.

The second area of cost savings could potentially be much greater, but it represents a long-run savings to the system as a whole. The greatest expenditure of assets of the criminal justice system comes from the multiple appearances of a recidivist criminal who will be charged with a number of offenses during his lifetime. The greatest potential savings in cost to the criminal justice system lies in improving the effectiveness of the first effort at the rehabilitation of a criminal defendant. Pretrial diversion would bring good supervision and services to the criminal defendant at an early point where they have been the most successful.

A large percentage of people who have once been convicted of a crime will again face criminal charges. This entails not only court expenses, but the cost to the victims of these added offenses, as well as the costs of police investigation and the increasingly long periods of incarceration given multiple offenders. If a potential criminal career can be turned around at an early stage, the chances for cost savings to society as a whole are great, and in addition, it will serve to improve the level of public safety in the Nation. The vast majority of crime in America is committed by repeaters—multiple offenders. The only way in which we can make a significant dent on crime in America is in the reduction of this recidivistic crime.

Experimental pretrial diversion programs have reduced the chances that an individual would be again involved in crime by at least a third. Even if new programs fall below this level of success, the potential for cost savings is still significant.

This legislation seeks a reorientation of some of the priorities of our criminal justice system. At present we make the biggest investment in an offender when he has already been convicted of several crimes and receives a long sentence to an institution where room, board, and security are expensive. If the criminal justice system can intervene early in a potential criminal career with adequate supervision and services, it will be pos-

sible to turn some potential future recidivists toward a life more useful to society, and less expense.

Pretrial diversion has the potential to save not only money but people as well. It would be voluntary with the individual, but, because he is in the program by choice, the chances are much greater that he will be more interested in his own rehabilitation. A high quality of supervision and services will also improve chances for success.

The pretrial diversion programs envisioned in this legislation will begin with a small caseload and can expand only as they prove their worth to the criminal justice system and to the community. This way the quality of services can be maintained at a high level and at the same time the sense of partnership between the prosecutor, the community, and the individual can be retained.

The ultimate saving from pretrial diversion, or any other good correctional program, is the savings to the public in the protection of society. The recognition which the concept of pretrial diversion has received in recent months is ample evidence of the possibilities which it will hold for the Nation. In several instances, Federal agencies have provided funds for experimental pretrial diversion projects and the reports and results of these projects have been made available to the public. In many communities, pretrial diversion projects are being started by the people because they have seen its future potential themselves and have not sought outside funding. The legislation which is introduced here today provides the framework for cooperation of the Federal system of criminal justice with these local resources where they are available and has the potential for carrying out a spirit of cooperation between local and Federal agencies in the criminal justice field.

The concept of pretrial diversion has been widely recognized by people with varying perspectives on the criminal justice system for a long period of time. In 1967, the President's Commission on Law Enforcement and Administration of Justice said that:

> Prosecutors deal with many offenders who clearly need some kind of treatment or supervision, but for whom the full force of criminal sanctions is excessive; yet they usually lack alternatives other than charging or dismissing. In most localities programs and agencies that can provide such treatment and supervision are scarce or altogether lacking, and in many places where they exist, there are no regular procedures for the court, prosecutors, and defense counsel to take advantage of them.

In 1970, the President's Task Force on Prisoner Rehabilitation also recognized the need to experiment with and develop the potential of pretrial diversion. The task force recommended:

> The Congress should enact legislation and appropriate funds for the creation . . . of special units to provide preadjudication . . . services of all kinds to defendants, and information about defendants to prosecutors and judges, with the object of diverting as many defendants as possible from full criminal process.

We further recommend:

> The Federal Government should fund an experimental program to determine the effectiveness . . . of deferred adjudication of certain defendants under probation.

On December 6, 1971, addressing the first National Conference on Corrections, then Attorney General John N. Mitchell said:

> Let us recognize that corrections should begin, not with the prisons, but with the courts. Let us ask whether in every case we need to achieve "the object so sublime" of the Mikado's Lord High Executioner—"to make the punishment fit the crime." In many cases society can best be served by diverting the accused to a voluntary community oriented correctional program instead of bringing him to trial. The Federal criminal justice system has already used this formula in many juvenile cases—the so-called Brooklyn plan. I believe this program could be expanded to include certain offenders beyond the juvenile age, without losing the general deterrent effect of the criminal justice system.

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

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

S. 798

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 "Community Supervision and Services Act".

SEC. 2. Congress hereby finds and declares that the interests of protecting society and rehabilitating individuals charged with violating criminal laws can best be served by creating new and innovative alternatives for treatment and supervision within the community; that in many cases, society can best be served by diverting the accused to a voluntary community-oriented correctional program; that such diversion can be accomplished in appropriate cases without losing the general deterrent effect of the criminal justice system; that the retention of the deferred charges will serve both as a deterrent to committing further offenses and as an incentive to complete rehabilitative efforts, and that alternatives to institutionalization which provide for the educational, vocational, and social needs of the accused will equip him to lead a lawful and useful life.

SEC. 3. As used in this Act, the term—

(1) "eligible individual" means any person who is charged with an offense against the United States and who is recommended for participation in a program of community supervision and services by the attorney for the Government in the district in which the charge is pending;

(2) "program of community supervision and services" may include, but is not limited to, medical, educational, vocational, social and psychological services, corrective and preventive guidance, training, counseling, provision for residence in a halfway house or other suitable place, and other rehabilitative services designed to protect the public and benefit the individual;

(3) "plan" includes those elements of the program which an individual needs to assure that he will lead a lawful lifestyle;

(4) "committing officer" means any judge of the United States, or United States magistrate authorized to commit any person on a criminal charge; and

(5) "administrative head" means a person designated by the Attorney General as chief administrator of a program of community supervision and services in accordance with section 9(2) of this Act.

SEC. 4. The administrative head of a program of community supervision and services shall, to the extent possible, interview each person charged with a criminal offense against the United States whom he believes may be eligible for diversion in accordance with this Act and, upon further verification that the person may be eligible, shall assist such person in preparing a preliminary plan for his release to a program of community supervision and services.

SEC. 5. The committing officer may release any individual to a program of community supervision and services if he believes that such individual may benefit by release to such a program and he determines that such release is not contrary to the public interest. Such release may be ordered at the time for the setting of bail, or at any time thereafter. In no case, however, shall any such individual be so released unless, prior thereto, he has voluntarily agreed to such program, and he has knowingly and intelligently waived, in the presence of the committing officer, any applicable statute of limitations and his right to speedy trial for the period of his diversion.

SEC. 6. The administrative head of a program of community supervision and services shall report on the progress of the individual in carrying out his plan at least once in each ninety-day period following the date on which an individual was released to a program community supervision and services. A copy of each report shall be delivered to the attorney for the Government, and filed with the committing officer. All such reports shall be confidential and kept under seal unless otherwise directed by the Court.

SEC. 7. (a) For the ninety-day period following the date an eligible individual is released to a program of community supervision and services under this Act, the criminal charge against such individual shall be continued without final disposition, except that the committing officer may extend such period for up to one year in the aggregate.

(b) The committing officer, at any time, shall terminate such release, and the pending criminal proceeding shall be resumed when the attorney for the Government finds such individual is not fulfilling his obligations under his plan, or the public interest so requires.

(c) If the administrative head certifies to the committing officer at the end of the period of diversion that the individual has fulfilled his obligations and successfully completed the program, the committing officer shall dismiss the charge against such individual.

SEC. 8. The chief judge of any district may appoint an advisory committee for a program of community supervision and services, to be composed of the chief judge, who shall serve as chairman; the attorney for the United States, and any other judges of the district or persons residing in the district so designated. The advisory committee may include persons representing social service or any other agencies to which persons released to a program of community supervision and services may be referred. The advisory committee shall plan for the implementation of any program of community supervision and services for the district, and shall regularly review the administration and progress of any such program. All members of the committee shall serve without further compensation, except reimbursement for reasonable expenses necessary to their duties as members of the committee.

SEC. 9. In carrying out the provisions of this Act, the Attorney General is authorized to—

(1)(A) employ and fix the compensation of, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such persons as he determines necessary to carry out the purpose of this Act;

(B) acquire such facilities, services, and

materials which he determines necessary to carry out the purposes of this Act; and

(C) to enter into contracts, without regard to advertising requirements, for the acquisition of such personnel, facilities, services, and materials which he determines necessary to carry out the purposes of this Act;

(2) appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, an administrative head of a program of community supervision and services to serve any United States district court; except that each such appointment shall be made with the concurrence of the chief judge of the United States district court having jurisdiction over the district within which such person so appointed shall serve;

(3) consult with the Judicial Conference in the issuance of any regulations or policy statements with respect to the administration of each program of community supervision and services;

(4) prepare reports for the President, the Congress, and the Judicial Conference showing the progress of all programs of community supervision and services in fulfilling the purpose set forth in this Act;

(5) certify to the appropriate chief judge of the United States district court that adequate facilities and personnel are available to fulfill a plan of community supervision and services upon recommendation of the advisory committee for such district;

(6) provide technical assistance to any agency of a State or political subdivision thereof, or to any nonprofit organization, which provides programs of community supervision and services to individuals charged with offenses against the laws of any State or political subdivision thereof;

(7) provide for the audit of any funds expended under the provisions of this Act;

(8) accept voluntary and uncompensated services;

(9) provide additional services to persons the charges against whom have been dismissed under this Act, upon assurance of good behavior and if such services are not otherwise available; and

(10) promote the cooperation of all agencies which provide education, training, counseling, legal, employment, or other social services under any Act of Congress, to assure that eligible individuals released to programs of community supervision and services can benefit to the extent practicable.

SEC. 10. For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, the sum of $2,500,000.

SECTION-BY-SECTION ANALYSIS OF COMMUNITY SUPERVISION AND SERVICES ACT

Sec. 1. Short title—The Community Supervision and Services Act.

Sec. 2. Findings and Declaration—

Congress hereby finds and declares that the interests of protecting society and rehabilitating individuals charged with violating criminal laws can best be served by creating new and innovative alternatives for treatment and supervision within the community; that in many cases, society can best be served by diverting the accused to a voluntary community-oriented correctional program; that such diversion can be accomplished in appropriate cases without losing the general deterrent effect of the criminal justice system; that the retention of the deferred charges will serve both as a deterrent to committing further offenses and as an incentive to complete rehabilitative efforts, and that alternatives to institutionalization which provide for the educational, vocational, and social needs of the accused will equip him to lead a lawful and useful life.

Sec. 3. (1) Limits those who are eligible for pre-trial diversion to persons approved by the U.S. Attorney for the district in which the charges have been brought.

(2) The services available to an individual who is diverted into the program include job placement, vocational and other training, medical and psychological services, all types of counseling, and assistance in obtaining a suitable residence.

(3) The plan is a voluntary agreement made by each participant with the program director, the prosecuting attorney and the court as to the services he will need, and the efforts he will make, in order to be assured that he will acquire what is necessary to succeed in society when his period of supervision ends. The plan can be modified to meet new goals of the individual or new problems identified by the program staff.

(4) When an individual charged with a criminal offense has been approved for pre-trial diversion, concurrence in this decision must be obtained from the committing officer who is either a U.S. magistrate or a District judge for the district in which the charges have been brought. Local rules to provide that certain types of cases must be handled by the magistrate or by a judge would be permitted.

(5) The administrative head is the person who functions as the local director of a program serving a judicial district in the U.S. Court system. He is recognized by the court as a source of information and progress reports for the use of the U.S. Attorney in making the diversion determinations.

Sec. 4. Each person arrested on Federal charges who may be eligible for pre-trial diversion would be interviewed to obtain background information and to compare it with the criteria for participation in the program, the interviewer may also counsel the person as to the possibility that he may qualify for diversion to such a program and assist him in preparing a plan to be presented to the U.S. Attorney and the committing officer.

Sec. 5. The following events must occur before the committing officer makes the final determination to divert an individual to a program of community supervision and services: the U.S. Attorney must recommend diversion, the individual must voluntarily agree to be diverted, and the committing officer must determine that diversion will both benefit the individual and serve the public's interest. In some cases a determination to divert an individual can be made at the time of the initial bail hearing, but it may be at any subsequent appearance, such as an adjourned bail hearing, arraignment, etc. As part of the voluntary agreement to be diverted, an individual must knowingly and intelligently, in the presence of the committing officer, waive his right to speedy trial, and also waive any applicable statute of limitations. This measure is designed to protect both the Government's criminal case and the defendant's constitutional rights.

Sec. 6. The pre-trial diversion program staff must report to the court and to the U.S. Attorney on the progress of each diverted individual at least once every 90 days. The reports would be confidential in order that they can be complete without prejudicing either the diverted individual's right to a fair trial should he wish to drop out of the program or the Government's case should it wish to resume prosecution.

Sec. 7. Although the normal period for diversion would be 90 days, the committing officer may authorize an extension of this time frame; however, in no event, may the total period of diversion exceed one year. At any time while the individual is diverted, the U.S. Attorney may terminate the individual's participation in the pre-trial diversion program, the program head may also terminate him, or the individual will voluntarily terminate it himself. At this time, the criminal proceeding will be reinstituted and the individual will go to trial, or if he chooses enter a guilty plea. When the individual completes the program to the satisfaction of the U.S. Attorney and the director of the pre-trial diversion program, the charges then would be dismissed, and could not be reinstituted.

Sec. 8. A local committee would serve as the advisory board for any pre-trial diversion program and the committee would be appointed by the chief judge of the district. The only other person required to be a member of this committee is the U.S. Attorney, but the committee may include other judges of the district, members of the Bar, representatives of agencies in the community providing services to which the individuals who are diverted may be referred for assistance, and any other interested citizens. Advisory committee members would receive no pay but could submit vouchers for their expenses. The program of community supervision and services would be based upon a plan for the district. This plan would not preclude the situation where the district could use more than one local agency as the supervising agency.

Sec. 9. (1) The Attorney General may use any means necessary to provide the professional services involved in a program of community supervision and services. Such a program may be carried out by employees of the Department of Justice, U.S. Probation Service, a bail agency administered by a district court, a local public, non-profit or private agency which might provide similar services for criminal defendants in state, county or municipal courts.

(2) The Attorney General must have the agreement of the chief judge of the district court in appointing employees or contracting for services.

(3) The Attorney General must consult with the Judicial Conference of the United States in the issuance of regulations and policy statements necessary to implement the program.

(4) The Attorney General is responsible for preparing and submitting to the President, the Congress and the Judicial Conference, reports showing the progress of this Act in fulfilling the purposes set forth.

(5) The Attorney General would certify that adequate facilities and personnel are available for the implementation of a plan of community supervision and services, upon recommendation of the local advisory committee.

(6) The Attorney General could provide technical assistance to any agency which wished to implement a program of pre-trial diversion for persons charged with offenses in state, county or municipal courts, or in collaboration with the U.S. district courts.

(7) Expenditures must be audited.

(8) The ban on accepting the services of volunteers would be waived so that they could participate as counselors or do other work with the individuals diverted to programs of community supervision and services.

(9) The maximum period of time for an individual to be diverted, which is one year, may expire before he has completed a course of study, such as a vocational training program which he has started. If no other resources were available to continue his tuition or other expenses for such a program, they could be continued as long as he continued to lead a lawful lifestyle.

(10) The Attorney General would also serve at the cabinet level to coordinate the delivery of services from other Federal agencies to the individuals diverted into community supervision and services, including such agencies as the Department of Health, Education and Welfare, the Department of Labor and others.

Sec. 10. The annual expenditure of $2,500,000 would be authorized to operate programs of community supervision and services.

Mr. PERCY. Mr. President, I am very pleased today to be able to join with the distinguished Senator from North Dakota (Mr. BURDICK) in cosponsoring the Community Supervision and Services Act. I believe that this legislation offers the hope of safer communities through a reduction in crime.

The pretrial diversion programs called for by this legislation are not untested and unproven. On the contrary, this legislation is the direct result of projects which have proved their worth, both in terms of the safety of the community and reduced crime, and in terms of salvaging some people who have taken a wrong first step, but whose lives are not yet fixed in criminal patterns. If there is one single truth that we have learned over the years about the American correctional process, it is that if a person is not a hardened criminal when he enters prison, he most probably will be when he gets out of prison. In recognition of this basic truth, projects like the Manhattan Court Employment Project were initiated which took certain offenders out of the traditional mainstream of our criminal justice system and rerouted them into alternative programs.

In general, these projects work this way: when a person is arrested, he is automatically screened by someone trained in diversion techniques. If certain standards, such as age, offense charged, and past record are met, he can then be recommended for a diversion program. This recommendation must then be approved by the prosecutor. This is not a case of simply dropping the charges. On the contrary, the charges are suspended. If the defendant's participation in the program is unsatisfactory, or if he represents a threat to society, then his participation in the diversion project can be terminated, and he may be tried for the original offense with which he was charged.

The type of diversion program would differ with each participant. For some, it would involve academic education. Others would learn vocational skills. Others would need medical help or some form of counseling. The key point is that the offender would not spend his time in wasteful endeavors. Instead, he would be learning, with the help of experienced people, to rejoin his community as a productive member.

What kind of result can we expect from projects such as these? Substantial is the only answer one can give. On the average, offenders have about a 7 out of 10 chance of committing another crime and returning to prison again. But of those defendants who have participated in the Manhattan court employment project, the rate of arrest while active in the program in the first quarter of fiscal year 1973 was 2.5 percent. What this means to society is that a person who has been through the criminal justice system and been incarcerated will return to crime 70 times out of 100, but someone who has gone through a program such as that authorized by this bill and based on the model of the Manhattan court employment project will return to crime about 3 times out of 100.

Another possible benefit from this type of diversion is the lessening of the pressure on the prosecutor and the court to engage in the practice of plea bargaining, a process where convenience is more important than justice. By screening certain defendants out of the system, the courts would not be forced to yield to the pressures of heavy caseloads to the same degree as they are at present. And the more you reduce the need for plea bargaining, the more attention can be focused on the needs of society rather than on the dictates of convenience. I would invite the attention of my colleagues to the recommendations contained in the working papers of the recently concluded National Conference on Criminal Justice which recommended both the use of diversion programs and the abolition of plea bargaining. The legislation introduced today goes a long way toward realizing these very helpful recommendations.

Mr. President, I want to commend Senator BURDICK and his fine staff for the efforts which they have contributed in drafting this legislation. The hearings which were held last year on this legislation's predecessor, S. 3309, were most informative and most persuasive. The need for such legislation is quite evident to even the novice in the field of criminal justice. The benefit to society becomes apparent when one examines the statistics of projects upon which this legislation has been modeled. I hope that the Senate can quickly pass this much-needed legislation so that the added protection it offers society will not be delayed.

By Mr. McGOVERN:

S. 799. A bill to provide adjustment assistance to Vietnam era prisoners of war. Referred to the Committee on Armed Services.

SPECIAL COMPENSATION FOR OUR PRISONERS OF WAR

Mr. McGOVERN. Mr. President, I introduce, for appropriate reference, a bill to provide special disability compensation for Americans who have been held as prisoners of war in Southeast Asia. I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

The proposal is similar to legislation introduced yesterday by 38 Members of the House of Representatives. It would define prisoner of war status as a disability for the purpose of veterans compensation, and would provide payments of $40 per month for each year the veteran was detained, up to a maximum of $200 per month.

With the cease-fire agreement in effect, we all want to begin repairing the damage our own society has suffered from this long and bitter conflict, as well as helping to rebuild devastated areas in Southeast Asia. We also recognize that there are some losses which can never be recovered—those of life and limb. We try to compensate, however inadequately, through veterans programs.

We should see the years lost by our prisoners of war the same way. These men have had precious years taken off of their lives. The first American prisoner was captured on August 5, 1964, and has been confined for 8½ years. Many others have been locked away nearly as long. And while we have a great deal to learn about the conditions of their confinement, it is clear that during that time they were certainly denied the full protection of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War, which sets internationally recognized standards of humane and decent treatment.

Now these men are coming home to a society that will be difficult for many of them to recognize. Our best experts tell us that they may encounter enormous problems in readjusting to their families, to their careers, and to life in the United States.

The compensation provided by this legislation is a modest amount. There is no question, but what our society can afford it. Considering what these men have gone through, I do not see how we can deny it.

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

S. 799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 314 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(t) Any person who was detained as a prisoner of war during the Vietnam era by the Government of North Vietnam or any other hostile government or group in Indochina shall be deemed to be disabled within the meaning of section 310 of this Act. The rate of compensation therefor shall be $40 per month for each year or portion thereof that such person was detained as a prisoner of war, not to exceed $200 per month. Such compensation shall be in addition to any other compensation provided in this section."

By Mr. McCLELLAN (for himself, Mr. MANSFIELD, Mr. KENNEDY, Mr. ROBERT C. BYRD, and Mr. BIBLE):

S. 800. An original bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the compensation of innocent victims of violent crime in financial stress; to make grants to the States for the payment of such compensation; to authorize an insurance program and death benefits to dependent survivors of public safety officers; to strengthen the civil remedies available to victims of racketeering activity and theft; and for other purposes. Placed on the calendar by unanimous consent.

VICTIMS OF CRIME ACT OF 1973

Mr. McCLELLAN. Mr. President, at the conclusion of my remarks I shall introduce for myself and the distinguished Senator from Montana (Mr. MANSFIELD), the distinguished Senator from Massachusetts (Mr. KENNEDY), and the distinguished Senator from Nevada (Mr. BIBLE), the "Victims of Crime Act of 1973." This proposed legislation embodies the essential features of a number of separate bills now pending before the Senate, which received the overwhelming

support of this body in the closing days of the last Congress.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

This title, derived from S. 300, introduced by the distinguished Senator from Montana (Mr. MANSFIELD) and the distinguished Senator from Minnesota (Mr. MONDALE) would establish a direct Federal program, estimated to cost $6 million a year, to meet the financial needs of innocent victims of violent crime when the crime is committed within the District of Columbia, Federal territorial or maritime jurisdiction or on an Indian reservation.

The program would compensate for out-of-pocket losses by a victim, where there was some showing of "financial stress"; it would exclude only those in the upper income strata from coverage.

The title would also provide for a grant program, estimated to cost $22 million a year, with a 50-State participation, covering 75 percent of the costs of State crime compensation plans.

Nine States now have such programs: Alaska, California, Hawaii, Massachusetts, Maryland, Nevada, New Jersey, New York, and Rhode Island.

This legislation was introduced last year as S. 750. It was processed by the Subcommittee on Criminal Laws and Procedures, which I am privileged to chair, and a hearing record of some 1,112 pages was compiled. See "Victims of Crime," hearings before the Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, 92d Congress, first session, 1972. It was reported by the Judiciary Committee on September 8, 1972, see Senate Report No. 92–1104, 92d Congress, second session, 1972. And it passed the Senate by the record vote of 60 to 8 on September 18, 1972, see CONGRESSIONAL RECORD, volume 118, part 24, page 31009. No action was taken by the House.

TITLE II: GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

This title, derived from S. 33, introduced by the distinguished Senator from Massachusetts (Mr. KENNEDY) would establish a nationwide, federally subsidized program of group life, accidental death, and dismemberment insurance for State and local public safety officers defined to include firefighters, correctional guards, and court officers in addition to police. The plan is patterned closely after the servicemen's group life insurance program which is available to members of our Armed Forces. Coverage would be at a level of the officer's annual salary, plus $2,000, starting from a floor of $10,000 coverage and rising to a maximum of $32,000. The Federal Government would pay up to one-third of the total cost of the premiums, leaving the remainder to be covered by the insured officer or the State or local government.

Where existing State or local group life insurance plans already provide coverage for public safety officers, or where it was desired to establish such a program within a year after the effective date of the bill, eligible officers would choose by ballot between the Federal and the State or local plans. If they chose the State or local program, it would be eligible for the same subsidy which would go to the Federal plan.

This legislation was introduced last year as S. 33. It was also processed by the Subcommittee on Criminal Laws and Procedures. See hearings, supra. It was reported by the Judiciary Committee on September 13, 1972. See Senate Report No. 92–1124, 92d Congress, second session, 1972. And it passed the Senate by the record vote of 61 to 6 on September 18, 1972, see CONGRESSIONAL RECORD, volume 118, part 24, page 31024. No action was taken by the House.

TITLE III: DEATH BENEFITS FOR PUBLIC SAFETY OFFICERS

This title, derived from S. 15, introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA), would provide a lump-sum Federal death gratuity of $50,000 to the dependent survivors of public safety officers, including police, firefighters, and correction guards, killed in the line of duty as the result of a criminal act.

This legislation was introduced last year as S. 2087. It was also processed by the Subcommittee on Criminal Laws and Procedures. See hearings, supra. It was reported by the Judiciary Committee on August 18, 1972, Senate Report No. 92–1069, 92d Congress, second session, 1972. And it passed the Senate by the record vote of 80 to 0 on September 5, 1972, see CONGRESSIONAL RECORD, volume 118, part 22, page 29379.

The House of Representatives passed similar legislation, a conference was held, and a report filed. See House Report No. 92–1612, 92d Congress, second session, October 17, 1972. It was not possible, however, to secure a House vote on the report prior to adjournment. See CONGRESSIONAL RECORD, volume 118, part 28, page 36966 and 37063.

The text of title III of this proposed legislation is the text agreed upon by the conference with one exception. The date of the death benefits is made retroactive to the date of the conference agreement, that is, October 17, 1972.

TITLE IV: CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY AND THEFT

This title, derived from S. 13 introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA) and S. 742, introduced by the distinguished Senator from Nevada (Mr. BIBLE), would extend certain of antitrust type remedies—injunction, treble damages, and so forth—to the victims of the typical techniques employed by racketeers to invade legitimate businesses. It would also strike at the problem of cargo theft by enabling persons entitled to legal possession of goods to sue, for treble damages, persons responsible for stealing, buying, or reselling goods moving in interstate commerce.

This legislation was introduced last year as S. 16 and S. 2426. It was also processed by the Subcommittee on Criminal Laws and Procedures. See hearings supra. It was reported by the Judiciary Committee on August 16, 1972, see Senate Report No. 92–1070, 92d Congress, second session, 1972. And it passed the Senate by a record vote of 81 to 0 on September 5, 1972, see CONGRESSIONAL RECORD, volume 118, part 22, page 29379. No action was taken by the House.

Mr. President, these separate items of legislation were also combined into a comprehensive "Victims of Crime Act" on September 18, 1972, and added to the text of a House-passed measure. This comprehensive measure was cosponsored by the following 43 Senators:

Senators Allen, Bayh, Bentsen, Bible, Burdick, Cannon, Case, Chiles, Church, Cook, Cranston, Eastland;

Senators Gravel, Griffith, Gurney, Harris, Hart, Hartke, Hollings, Hughes, Humphrey, Inouye, Jackson, Kennedy, Mansfield, Mathias, McClellan, McGovern, McIntyre, Metcalf, Mondale;

Senators Moss, Muskie, Nelson, Pell, Percy, Randolph, Ribicoff, Roth, Schweiker, Stevenson, Tunney and Williams.

The comprehensive amendment was offered to the House bill to give the House an opportunity to act on the separate measures individually or as a package prior to adjournment. The amendment was accepted by the Senate by a record vote of 70 to 4, see CONGRESSIONAL RECORD, volume 118, part 24, page 31058. The amended House bill was then passed by a record vote of 74 to 0, ibid. No action, however, was taken on this comprehensive measure by the House prior to adjournment.

Mr. President, this legislation has the overwhelming support of the Senate and the Nation. Indeed, on January 31, 1973, the Democratic conference unanimously called for the taking of immediate action to bring to the Senate this sorely needed legislation. Consequently, I am hopeful that if we can act on it soon, it will be possible for the House to process it during this Congress that a mutually satisfactory compromise can be sent to the President without delay, that he will apply his signature, and that this proposed legislation will become law.

Mr. President, I send to the desk the bill to which I have referred, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the compensation of innocent victims of violent crime in financial stress; to make grants to the States for the payment of such compensation; to authorize an insurance program and death benefits to dependent survivors of public safety officers; to strengthen the civil remedies available to victims of racketeering activity and theft; and for other purposes.

Mr. President, I ask unanimous consent that the bill not be referred to committee, but that it be placed on the calendar, subject to being called up at some suitable time, a time that is appropriate taking into account the agenda of the Senate.

Mr. President, I make this request because the bill is important. I ask it, because last year hearings were held on all provisions of this measure. I deem that it would be wholly unnecessary to have another series of hearings covering the same ground.

I have conferred with the distinguished Senator from Nebraska (Mr. HRUSKA), who is the ranking minority

member on the Judiciary Subcommittee on Criminal Laws and Procedures. This request is agreeable to him, although he does not support all provisions of this measure. He is with me a cosponsor of separate bills, of two titles in this bill, which are now being processed in the subcommittee as separate bills.

I believe that a measure of this importance ought to be expedited. I want to see it moved along.

I ask unanimous consent that the bill be placed on the calendar.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HRUSKA. Mr. President, I reserve the right to object. I shall not object, but I would like to reserve a little time to make some comments following the remarks of the Senator from Montana.

Mr. McCLELLAN. Mr. President, I have the floor, I believe, and I shall be glad to yield the Senator time.

Mr. MANSFIELD. The chairman is prepared to rule, provided that the Senator from Nebraska follows me.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and the bill will be placed on the calendar.

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

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

S. 800

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 "Victims of Crime Act of 1973".

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that: (1) there is an increase in crimes of violence, racketeering activity and theft; (2) the increase in such crimes increases the chances of a person becoming a victim of such a crime; (3) on an increasing basis crimes of violence are being directed at public safety officers; (4) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are often not financially responsible; (5) the victims of crimes of violence, or their surviving dependents, are often themselves unable to bear the consequent losses; and (6) the victims of crimes of racketeering activity and theft could, with strengthened civil remedies, often help themselves to meet the financial consequences of such crimes.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime or their surviving dependents within the area primarily of Federal responsibility to bear the consequential losses and to assist the States to aid those within the area primarily of State responsibility; to establish insurance and death benefit programs for public safety officers or their surviving dependents; and to strengthen the civil remedies available to victims of racketeering activity and theft.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 522, respectively, as sections 550 through 571;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new parts:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eighteen years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, at a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury, where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of a State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board shall be eight years, except that (1) the terms of office of the members first taking office shall expire as designated by the President at the time of appointment, one at the end of four years, and at the end of six years, and one at the end of eight years, and (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 for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) the principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"SEC. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

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

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the Members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support or payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surviving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part, should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under this part and subsequently recovers damages from any other source based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for any compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in financial circumstances of a victim or one or more of his surviving dependents that eliminates financial stress.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession, giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net loss of $100 or an amount equal to a week's earnings or support, whichever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, or related series of such acts, omissions, or possessions, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may proportionately reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board, in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compensation.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compensation, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 455. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities

and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e)(1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f)(1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g)(1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that alloted under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"SEC. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code.

"(b) This part applies to the following acts, omissions, or possessions:

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkenness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"SEC. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"SEC. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"SEC. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, not a member of the Council, appointed pursuant to subsection (d) of this section shall receive $100 a day, including travel time, for each day he is engaged in the actual performance of his duties as a member of the committee.

"Each member of the Council or advisory committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"SEC. 460. The Board shall transmit to the Congress an annual report of its activities under this part. In its third annual report, the Board upon investigation and study, shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part F of this title and with respect to the adequacy of State programs receiving assistance under paragraph (10) of subsection (b) of section 301 of part C of this title."

COMPENSATION OF BOARD MEMBERS

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund.".

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

SEC. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

SEC. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate.

TITLE II—GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 201. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 202. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by adding after part F the following part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 502. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 per centum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 503. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
$	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 504. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: Provided, however, That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 505. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 504 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 506. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 507. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 508. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 506 of this subpart, any sums contributed by the Administration under section 507 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 515 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 517 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 509. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares;

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executer or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 517 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"SEC. 10. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basic consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. This schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy,

such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 511. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2.—Assistance to States and Localities for Public Safety Officers' Group Life Insurance Programs.

"SEC. 512. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) Assistance under this subpart shall not exceed one-third of the premiums attributable to the public safety officers enrolled in such State or unit of general local government program or such assistance as would be available to the public safety officers if they were enrolled under subpart 1 of this part, whichever is less, to the extent the amount of coverage under the State or unit of general local government program is comparable with the amount of coverage available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 513. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 514. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under his part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 516. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 517. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers Group Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

TITLE III—DEATH BENEFITS TO DEPENDENT SURVIVORS OF PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death benefit to dependent survivors of public safety officers.

SEC. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by adding after part G of the following new part:

"PART H—DEATH BENEFITS TO DEPENDENT SURVIVORS OF PUBLIC SAFETY OFFICERS

"DEFINITIONS

"SEC. 525. As used in this part—

"(1) 'child' means any natural, adopted, or posthumous child of a deceased public safety officer who is—

"(A) under eighteen years of age; or

"(B) over eighteen years of age and incapable of self-support because of physical or mental disability; or

"(C) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code.

"(2) 'criminal act' means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime;

"(3) 'dependent' means a person who was wholly or substantially reliant for support upon the income of a deceased public safety officer;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'line of duty' means within the scope of employment or service;

"(6) 'public safety officer' means a person serving a public agency, with or without compensation, as—

"(A) a law enforcement officer, including a corrections or a court officer, engaged in—

"(i) the apprehension or attempted apprehension of any person—

"(a) for the commission of a criminal act, or

"(b) who at the time was sought as a material witness in a criminal proceeding; or

"(ii) protecting or guarding a person held for the commission of a criminal act or held as a material witness in connection with a criminal act; or

"(iii) the lawful prevention of, or lawful attempt to prevent the commission of, a criminal act or an apparent criminal act or in the performance of his official duty; or

"(B) a firefighter; and

"(7) 'separated spouse' means a spouse, without regard to dependency, who is living apart for reasonable cause or because of desertion by the deceased public safety officer.

AWARDS

"SEC. 526. (a) Upon a finding made in accordance with section 527 of this part the Administration shall provide a gratuity of $50,000.

"(b) (1) Whenever the Administration determines, upon a showing of need and prior to taking final action, that a death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under section 527 of this part.

"(2) The amount of any interim benefit paid under paragraph (1) of this subsection shall be deducted from the amount of any final benefit paid to such person or dependent.

"(3) Where there is no final benefit paid, the recipient of any interim benefit paid under paragraph (1) of this subsection shall be liable for repayment of such amount. The Administration may waive all or part of such repayment.

"(c) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by payments authorized by section 12(k) of the Act of September 1, 1916, as amended, 4–531(1) of the District of Columbia Code.

"(d) No benefit paid under this part shall be subject to execution or attachment.

"RECIPIENTS

"SEC. 527. When a public safety officer has been killed in the line of duty and the direct and proximate cause of such death was a criminal act or an apparent criminal act, the Administration shall pay a benefit as provided in section 526 of this part as follows:

"(1) if there is no surviving dependent child of such officer, to the surviving dependent spouse or separated spouse of such officer;

"(2) if there is a surviving dependent child or children and a surviving dependent spouse or separated spouse of such officer, one-half to the surviving dependent child or children of such officer in equal shares and one-half to the surviving dependent spouse or separated spouse of such officer.

"(3) if there is no such surviving dependent spouse or separated spouse, to the dependent child or children of such officer, in equal shares; or

"(4) if none of the above, to the dependent parent or parents of the decedent, in equal shares.

"(5) if none of the above, to the dependent person or persons who are blood relatives of the deceased public safety officer or who were living in his household and who are specifically designated in the public safety officer's duly executed authorization to receive the benefit provided for in this part.

"LIMITATIONS

"SEC. 528. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer."

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY AND THEFT

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity and theft.

RACKETEER CIVIL REMEDIES

SEC. 402. (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, without 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 an estoppel 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 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.".

(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 thereafter 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. 403. (a) Section 659 of title 18 of the United States Code 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 away, concealed, or obtained.

"(d) Whoever violates any provision of subsection (a), (b), or (c) 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 enterprise; 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 Unted States, without regard to the amount in controversy, and shall recover the actual damages sustained by the United States, and the cost of the 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 threefold 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 his 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 property, shall have been removed or into which it shall into which such money, baggage, goods, chattels, or other 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 possession of any money, baggage, goods, chattels, or other property, recently 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, 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.".

TITLE V—MISCELLANEOUS PROVISIONS AUTHORIZATIONS

SEC. 501. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsections:

"(b) In addition to the appropriations authorized by subsection (a) of this section, there is authorized to be appropriated—

"(1) for the purposes of part F, $5,000,000 for the fiscal year ending June 30, 1973;

"(2) for the purposes of part G, $20,000,000 for the fiscal year ending June 30, 1973, and $25,000,000 for the fiscal year ending June 30, 1974; and

"(3) for the purposes of part H, $10,000,000 for the fiscal year ending June 30, 1973, and $10,000,000 for the fiscal year ending June 30, 1974."

USE OF APPROPRIATIONS

SEC. 502. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEVERABILITY

SEC. 503. 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 DATES

SEC. 504. (a) Titles I, II and IV of this Act shall become effective on the date of enactment of this Act.

(b) Title III of this Act shall become effective on the date of enactment of this Act and the benefits thereunder shall be retroactive with respect to any death of a public safety officer as defined in part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, which occurred on or after October 17, 1972.

Mr. McCLELLAN. Mr. President, now I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, as the distinguished senior Senator from Arkansas has stated, the Democratic conference unanimously last week urged Senator JOHN MCCLELLAN to introduce again the Omnibus Criminal Victims Act that consists of sections dealing with compensation for victims of crime, a special insurance incentive program for public safety officers, the injury benefit plan for police officers, and the extra remedies provided for victims of racketeering. Senator MCCLELLAN has, today reintroduced the omnibus crime control bill, and it now rests on the Senate Calendar.

The bill, on final passage, was passed by a vote of 74 to 0 on September 18, 1972—less than 5 months ago. Every Senator is on record in favor of each provision of the bill.

Every feature of this proposal has undergone exhaustive Senate committee investigation and consideration.

The hearing record consists of 1,112 pages of testimony, exhibits, and supporting documents, including cost projections.

Forty-three witnesses appeared in person or submitted statements in support of one or all of the various features of the bill. Not one appeared to testify or submitted a statement in direct opposition to the bill as a whole.

The shooting of Senator STENNIS has brought into focus the urgency of proposals such as this. It is not that Senator STENNIS is personally unable to provide for himself, for his medical attention, for his family, or for any loss of earnings while he is recovering. Because of violent crime and its effects, however, there are many victims in society who simply cannot pay the bills. Perhaps even more important are the features in this proposal that encourage individuals to take the risks that law enforcement officials are compelled to take. The law officer, just as the victim, deserves special consideration in our system of justice, and while the victim would be compensated under this proposal, the police officer would be singled out for special attention when it comes to injuries he receives in the line of duty and when it comes to obtaining insurance against such injuries.

In short, it appears to me that every reason exists to pass this bill as expeditiously as possible. The Committee on the Judiciary has considered it in great detail. The Senate passed it unanimously. It would be my hope that the Senate should be given the opportunity to face up to it again as quickly as possible, and this is one means, if the Senate agrees, of so doing.

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

Mr. McCLELLAN. I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise to express my complete and full accord with the suggestion for proceeding with this matter with all possible dispatch. I have no objection to the bill's being placed on the Calendar. Such action on the provisions of the bill and its component parts is not only timely; it is urgent and it is also highly desirable. I support its being placed on the Calendar so that it will receive consideration and so action can be taken.

It should be noted, however, that there is some difference of opinion and there are some misgivings as to one, and possibly two, of the titles that are involved; and further, that there are now pending several bills individually stating and treating of the several titles that are included in the omnibus bill.

I find myself in full agreement with the statement by the Senator from Arkansas that no further hearings are necessary on this measure, but I would suggest that a report be written by the committee on the bills that are before it, that that be done at an early time, and the Senator from Nebraska will cooperate fully with the expediting of the matter, so that those who are interested in expressing their differences of opinion on those parts of the omnibus bill in which they have an interest will have an opportunity to do so. It would not entail any delay.

Again, the Senator from Nebraska wants to pledge his support to expediting the matter, as a member of the subcommittee which is headed by the Senator from Arkansas, as well as the members of the full Judiciary Committee that will report the other bills to the Senate.

So, with that explanation, Mr. President, I say I have no objection to the omnibus bill's being placed on the calendar, with the understanding that this timely fashion and this timely schedule will be complied with.

Mr. McCLELLAN. I thank the Senator.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) be added as a cosponsor of the bill.

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

By Mr. MOSS:

S. 803. A bill to provide for the designation of the Escalante Trail, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 810. A bill to provide for the issuance of a special series of postage stamps to commemorate the bicentennial of the Escalante Expedition. Referred to the Committee on Post Office and Civil Service.

Mr. MOSS. Mr. President, in 1976 this Nation will be celebrating not only the bicentennial of our birth as a nation in Philadelphia in 1776, but the 200th anniversary of another event far out across the continent which helped immeasurably to make our Nation great.

This second event was the expedition chronicled by Father Silvestre Valez de Escalante which traveled from Santa Fe to the shores of Utah Lake, opening up the mountain West to European civilization.

The members of the expedition were the first Europeans to view the spectacular regions that now comprise the State of Utah, and the path that they marked through present-day Utah, Colorado, Arizona, and New Mexico blazed the way for traders and others who followed over the route that became known as "The Old Spanish Trail." The impact of this expedition on our history and development cannot be overstated.

I know that we as a nation will be deeply involved in celebrating the bicentennial of our national birth in 1976. That is as it should be, of course. But I hope we will also find time to recognize the expedition and the man who wrote such a momentous chapter of the history of the Far West in that same year.

I am introducing two bills today which, if enacted, will assure that the Escalante expedition will not be forgotten.

The first bill authorizes the Postmaster General to issue in 1976 a special series of postage stamps to commemorate the bicentennial of the Escalante Expedition, with the series to consist of blocks of four different stamps, each representing that part of the route of the expedition through each of the four States.

The second bill authorizes the Secretary of the Interior to enter into agreements with the appropriate officials of the four States—Utah, New Mexico, Arizona, and Colorado, to encourage them to designate the route of the expedition as the Escalante Trail, and to erect or place appropriate markers along the route.

In introducing these bills in the 92d Congress, I repeated in some detail the dramatic story of the Escalante expedition as a justification for commemorating the feat in its bicentennial year. I will not take the time nor space to tell the story again here today. I shall only say that Father Escalante's journey was one of the most important trips of exploration ever made from New Mexico into Colorado, Utah, and Arizona, and it had far-reaching consequences for these States and the areas adjacent to them.

The members of Escalante's party were the first white men to see buffaloes near the Green River in Utah; the first to view Utah's magnificent Mount Timpanogos; the first to view the beautiful Utah Valley and Utah Lake. They were

the first white men to go among and describe many of the mountain Indian tribes, and the first to cross the great gorge of the Colorado River. The story of their epic journey will forever remain one of the most thrilling and momentous chapters in American history.

By Mr. BIBLE (for himself, Mr. ABOUREZK, Mr. BEALL, Mr. BENNETT, Mr. BURDICK, Mr. CANNON, Mr. ERVIN, Mr. GRAVEL, Mr. GURNEY, Mr. HART, Mr. HASKELL, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. MCCLELLAN, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MOSS, Mr. MUSKIE, Mr. NUNN, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCOTT of Pennsylvania, Mr. SPARKMAN, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG):

S. 804. A bill to amend the Small Business Act to consolidate and expand the coverage of certain provisions authorizing assistance to small business concerns in financing structural, operational, or other changes to meet standards required pursuant to Federal or State laws. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BIBLE. Mr. President, as chairman of the Select Committee on Small Business, I introduce for appropriate reference, with 35 other Senators as cosponsors, a bill to provide general authority for "economic disaster" loans to small businesses facing compliance with mandatory Federal environmental, consumer protection laws. I ask unanimous consent that the text of this bill be printed in the RECORD at the conclusion of my statement.

As a key phase of a cooperative effort to help make millions of American small businesses full partners in progress rather than imminent victims, my distinguished colleague from Texas in the other body, Mr. PATMAN, the chairman of the House Banking and Currency Committee, has most graciously offered to serve as the chief sponsor of this legislation in the other body. I am advised that his introduction of this bill will take place today as we launch this dual effort to help the small businessman where he is hurting the most, his pocketbook, in paying his dollars out to meet some of today's, and probably tomorrow's, Federal standards.

As I will explain more fully later in my statement, this legislation passed the Senate last year, but failed in conference with the other body. Those problems have now been worked out most satisfactorily, and I am particularly indebted to the distinguished chairman of the House Banking and Currency Committee for adding his great competence and considerable effort to help small businessmen everywhere.

Likewise, we are particularly pleased to have broad bipartisan support in this body for this bill as reflected by the 35 distinguished Senators from both sides of the aisle who have joined as cosponsors of this bill, Mr. ABOUREZK, Mr. BEALL, Mr. BENNETT, Mr. BURDICK, Mr. CANNON, Mr. ERVIN, Mr. GRAVEL, Mr. GURNEY, Mr. HART, Mr. HASKELL, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. MCCLELLAN, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MOSS, Mr. MUSKIE, Mr. NUNN, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCOTT of Pennsylvania, Mr. SPARKMAN, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG.

Mr. President, the objective of this bill is to solve problems which the Federal Government itself is causing small business. These difficulties stem from the enactment by Congress and enforcement by the executive branch of a series of statutes creating new mandatory environmental, consumer, pollution, health and safety standards with which businesses must comply under short-term deadlines imposed by these laws.

All of these new standards have desirable objectives, in my opinion. But one undesirable side effect has been to place a disproportionate burden on small, local and family companies. These firms are required to invest large amounts of capital in a short time and upon which they will not be able to earn a return. If they do not, or cannot, they are subject to immediate penalties and probably to a forced closing of their businesses. The burden on smaller firms is greater because they have fewer options in raising capital and must pay more for it than larger businesses. If the sum required is too great, or credit conditions are overly tight, they are not able to obtain these funds at all. Small businesses always stand at the back of the line when it comes to obtaining credit.

As an illustration, one study of 14 industries, completed in March of 1972, indicates that over the next four years more than 1,000 industrial plants will go out of existence with perhaps up to one-third of this total directly attributable to new mandatory Federal standards. Many Senators know of firms, some long established in their communities, which have already gone out of business because of these new laws. In Iowa, Texas, and elsewhere, for instance, about 125 meat processing plants were suddenly closed down following enactment of the Wholesome Meat Act. I do not know how many ever reopened. But, the lesson is clear. If Congress is to do its duty, the help should be available before the business closes, not after. Otherwise, it is really a post-mortem situation. The business will be dead; legislated out of business by the Federal Government.

We should not allow this to continue. When the Federal Government creates serious problems for small business and neglects to provide any solution, this is inequitable. This inequity will put a hidden weight on the competitive scale against every smaller business in this country if Congress does not provide a remedy. My bill attempts to balance the scale by permitting the Small Business Administration to make loans to allow smaller firms to comply with these standards. This will mean that many worthy firms in all parts of the country will be able to remain in business, to pay taxes to the Treasury, to provide goods, jobs, and services to their local communities.

HISTORY OF THIS BILL

As Members of this body may recall, congressional efforts to assist smaller firms into compliance with congressionally created mandatory standards began with the study Senate Resolution 290 and predecessor of this bill, S. 1750, which I introduced in 1968 and 1969 respectively, following the passage of the Wholesome Meat Act. By the 92d Congress the study had been completed and the bill had become S. 1649.

In 1972 the Senate passed this general authority as part of the Disaster Relief Act. However, it was deleted in a House-Senate conference. In the meantime, the language of the bill has been transplanted to other statutes with some regularity. It has thus been enacted as part of the Coal Mine Safety Act of 1969; the Occupational Safety and Health Act of 1970; and wholesome meat, poultry, and eggs legislation in 1970; the water pollution control amendments of 1972; and the Rural Development Act of 1972. Each of these statutes applies this loan principle to the particular subject matter of its act.

However, this subject-by-subject approach has left significant gaps in coverage. A business might be eligible for a loan to combat water pollution but could be put out of business by costs of complying with air pollution standards. Accordingly, I believe that a uniform approach of one statute would be desirable and would avoid many problems. It would consolidate the existing enactments under a single statute, and provide a single framework for the extension of this loan program to other fields.

U.S. TREASURY WILL BENEFIT FROM THIS LEGISLATION

We believe that helping small business into compliance with the new governmental standards is sensible, and that it is also sound as a budget matter.

All economic disaster loans made will be fully repayable to the Treasury with interest. These loans will not be made where money is available commercially. The interest rate sought is not a subsidized rate—it is at the actual cost of money to the Federal Government plus a one-fourth of 1 percent premium. And, because businesses will survive and expand as a result of these loans, they will pay more tax money into the Treasury.

The desirability of this approach is, I feel, reflected by the widening acceptance of this bill. Its list of Senate cosponsors has grown over the years. In hearings before the Banking Committee in July 1972, the administration, through the testimony of SBA Administrator Thomas Kleppe, endorsed the bill. The Banking Committee reported the legislation as part of the Disaster Relief Act and the Senate passed it. When it was considered in conference, however, the Members of the other body raised questions, including whether a statutory ceiling or an SBA administrative ceiling on the amount of such loans would be the most desirable.

COOPERATION WITH THE HOUSE OF REPRESENTATIVES TO DEVELOP THE BILL

In the interim, we have consulted at length with the House Members concerned as well as with the Small Business Administration to refine this measure and resolve the questions which have arisen. I believe we have made some progress and have strengthened the bill at several points. We recognize, of course, that the chairmen and members of the legislative committees concerned will bring additional expertise to the improvement of this legislation. We welcome a joint effort with them in advancing the bill in the interest of small business.

Thus, in view of the mounting pressures on small, local, and family businesses generated by the Federal laws which I have mentioned, I hope that we in Congress can come to early agreement on a measure of this kind, so that the Federal Government can set about helping solve some of the problems which it is creating for hard-pressed small business firms across this country.

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

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

S. 804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 7(b) of the Small Business Act is amended by striking out all that follows paragraph (4) through paragraph (6) and inserting in lieu thereof the following:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law, any State law enacted in conformity therewith, or any regulation or order of a duly authorized Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: *Provided,* That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and".

(b) Paragraph (7) of the first sentence of section 7(b) of such Act is redesignated as paragraph (6).

(c) The third sentence of section 7(b) of such Act is amended by striking out "(6), or (7)" and inserting in lieu thereof "or (6)".

(d) Paragraphs (1) and (2) of section 4(c) of the Small Business Act are amended by striking out "7(b)(7),".

SEC. 2. Section 28(d) of the Occupational Safety and Health Act of 1970 (Public Law 91-596) is amended by striking out "7(b)(6)" and inserting in lieu thereof "7(b)(5)".

By Mr. MOSS:

S. 805. A bill to establish a National Institute of Marketing and Health. Referred to the Committee on Commerce.

NATIONAL INSTITUTE OF MARKETING AND HEALTH ACT

Mr. MOSS. Mr. President, I introduce, for appropriate reference, a bill to establish a National Institute of Marketing and Health. During the last two Congresses, several distinct initiatives undertaken by the Senate Commerce Committee—cigarette advertising, advertising and nutritional illiteracy, and advertising and drug abuse—led along separate paths to a suspect role for advertising and marketing. In varying degrees, each initiative was frustrated by a lack of basic scientific literature adequately describing the psychosocial impact of marketing. In each case a significant relationship between marketing and advertising techniques and health—physical or mental—was suspected. But in no way could the committee locate the critical facts needed in order to make appropriate legislative judgments.

We are immersed in a marketing economy and consumer culture which we do not understand. Though the Federal Trade Commission has sought to regulate marketing practices, it has never attempted to develop a systematic accounting of the social costs of marketing, particularly as they affect human health. We are beset with profound and unsettling questions concerning the social role of advertising.

The repetitive pattern in much advertising promises instant gratification through the swallowing, tasting, touching, hearing, and even the smelling of an extraordinary variety of material goods. The incessant hammering of these themes has led critics to lay at advertising's door the erosion of our traditional value system based upon the intrinsic rewards of effort, discipline, and responsibility. And what of the health consequences of this consistent pursuit of marketing strategy?

There does exist some knowledge concerning the behavior of individuals subjected to advertising. But much of this behavioral research has been performed in isolation and a great proportion of the work has been funded by business naturally interested in a fairly narrow range of information. What little knowledge does exist is obscured by the economic self-interest of the sponsors of the research.

We are at a crisis point in the handling of our drug abuse problem in the United States. It is critical that every effort be explored to alleviate the burden which this problem poses for the American people. It is critical that the underlying problems of drug abuse be thoroughly explored and where a relationship exists, marketers must avoid themes and techniques which contribute to or promote drug abuse.

The National Institute of Marketing and Health would be an independent institution, free of the disorders of economic self-interest, but with adequate resources to draw upon the full range of disciplines and competencies in social and mass communications. It would bring together the information needed to make rational judgments about marketing activities.

The National Institute of Marketing and Health should be housed in the National Science Foundation, an environment which would be conducive to the kind of objective research needed. For the purposes of jurisdiction, however, the Institute is located in the Federal Trade Commission.

The Institute would have a broad mandate to consider the health impact of the consumer culture. It would be encouraged to engage in analysis of specific marketing themes and techniques and behavorial problems, such as drug abuse, as well as broad studies illuminating fundamental conflicts between marketing practices and messages and sound health values.

The Institute would make creative use of the vast data generated by private market research in the universities to develop an overall picture on the role of advertising and marketing in our society. I can envision several studies being undertaken which would be of great use to the public. First, a study of the relationship between the themes and techniques of advertising and drug abuse. Second, a study of the relationship between marketing techniques and alienation of young people from society. Third, a study of the relationship between food advertising and nutritional illiteracy among children.

In the end, the Institute will provide the important long-range insight necessary to maintain advertising on a socially constructive path. In doing so, the Institute would provide the public for the very first time with an adequate, competent objective understanding of the impact of marketing and health.

By Mr. GRAVEL (for himself and Mr. PASTORE):

S. 808. A bill to authorize the Commissioner of Education to undertake a program to screen elementary school children in order to identify children with specific learning disabilities. Referred to the Committee on Labor and Public Welfare.

SCREENING FOR LEARNING DISABILITIES ACT

Mr. GRAVEL. Mr. President, on behalf of the senior Senator from Rhode Island (Mr. PASTORE) and myself, I am pleased to introduce a bill which would provide for the screening of all elementary school children prior to the third grade for specific learning disabilities.

Under the Education of the Handicapped Act we defined—

"Children with specific learning disabilities" as those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

The Federal Government recognizes from 1 to 3 percent of the school-age

population as having specific learning disabilities. But various authorities have estimated that as many as 20 percent may have a learning problem of some degree. In the broad category of estimates we are talking about 12 million children who may not be able to begin or complete their educations without special help. This bill would clarify the discrepancies in the estimates. We would be able to determine, after the screening is conducted, what the figures actually are and what steps need to be taken.

Who is this child with a learning disability? This is a child who has average or superior intelligence, but is unable to achieve successfully in the average classroom situation. Deficits in perception, conception, communication and/or coordination, often but not always accompanied by behavior problems, make it difficult for him to learn without special help. The situation is beyond the child's control. He cannot learn just by trying harder. He usually looks and acts almost normal, so normal achievement is expected of him. Unfortunately, very few of the school teachers are able to detect what is causing the child's problem. This bill would provide for the mechanism enabling teachers to single out this child.

This child needs proper identification as early as possible so that a professional team can rectify his ineffective functions. An anxious child cannot learn. Failure to understand a child's special needs, both at home and in school, can lead to such great unhappiness and frustration that emotional disturbances result. Learning then becomes even more difficult, if not virtually impossible. The original reasons for failure may become completely hidden. This bill can provide a stopgate, so that a child can find help before it becomes too late.

Some authorities believe that many of the complex problems of today's dropouts, delinquents, and drug addicts stem from unrecognized and unresolved learning disabilities. With the proper help this child can go on to become a happy and productive member of society and not an economic drain on our social programs.

Although America is a wealthy Nation, it is not wealthy enough to discard the hundreds of thousands of its children who have learning problems. We are not wealthy enough to forgo the contributions those children would make if only they could receive the educations to which they have a right.

By Mr. KENNEDY:

S. 809. A bill to amend section 5 of the Urban Mass Transportation Act of 1964. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. KENNEDY. Mr. President, last night in Boston, Mass., a tragic accident and fire in the subway system took the life of one man and injured 94 others very seriously. I am certain that the Members of Congress join me in extending sympathy to the families of those involved in the tragedy.

On behalf of the Massachusetts Bay Transit Authority, I contacted the Department of Transportation to ask for emergency assistance for the authority to implement immediately the safety measures that are needed to assure the passengers of the system that their lives are not jeopardized by a continuing failure to meet adequate safety standards. I learned that the emergency program under the Urban Mass Transportation Act of 1964 expired on July 1, 1972, and that no funds can be made immediately available to the Massachusetts Bay Transit Authority. The amendment to this act, which I am offering today, would extend that emergency program to July 1, 1974.

Under funding procedures currently in effect for our mass transportation systems, mass transit systems must have completed a planning process outlining the need and projected use of Federal funds. The planning requirements call for long range, unified, and coordinated program planning that require an extended period of time to complete.

With the reinstitution of the emergency funding program, that comprehensive planning process may be underway, and funds provided to meet emergency needs can be authorized immediately. It is my hope that the MBTA could qualify for assistance if this program is reinstated.

The terrible tragedy in Boston reminds us of the importance of renewing this emergency program. I am hopeful that the Senate will act quickly on this legislation, which is so desperately needed for the safety of our citizens.

I ask unanimous consent to have printed in the RECORD certain material from the Boston Globe.

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

FOURTH FIRE SINCE DECEMBER 31 ON ASHMONT RED LINE: ONE DEAD, 94 HURT IN SMOKY BLAZE ON SUBWAY TRAIN

One person died and 94 others were overcome by dense smoke when one car of a Dorchester-bound MBTA train burst into flames after an electrical explosion in the Harvard-Ashmont subway at rush hour yesterday afternoon.

Fire officials said the fire began in the first car of a four-car train and rapidly filled the tunnel between South Station and Broadway with "thick, acrid smoke."

Several hundred commuters from the jam-packed train were led, gasping and wheezing, to the street outside South Station, most of them by MBTA personnel and firefighters who arrived within minutes of the first alarm at 4:20 p.m.

Traffic on most downtown streets slowed to a virtual halt as police blocked many roadways to provide access routes for emergency vehicles. Delays of more than three hours were reported by many motorists and MBTA patrons who took to the streets after their trains were halted.

Last night's fire was the fourth since Dec. 31 on the MBTA's Ashmont line. The four fires have left one person dead, at least 101 people treated or hospitalized, and thousands of commuters stranded.

Some of the injured were carried by litter or on chairs from the subway's Dewey square entrance, where scores of waiting ambulances took the more seriously stricken to hospitals.

Most of the victims suffered from smoke inhalation. Officials said 33 were treated at the Carney Hospital, Dorchester, 41 at Boston City Hospital and 20 at Massachusetts General Hospital.

The one fatality was identified late last night as Arthur Rotch, 74, of 1632 Canton av., Milton. His body was identified by his son Lawrence.

Thomas Mulhane, senior administrative assistant at the Boston City Hospital emergency floor, said: "Mr. Rotch probably died in the ambulance en route from South Station."

All we did was take his vital signs, and he was pronounced dead on arrival."

The train's motorman, John Mahoney, 56, of 121 Willow st., West Roxbury, was held for treatment at City Hospital. Two guards aboard the train, Richard Smith, 43, of 47 Marshview drive, Marshfield, and Michael McDonough, 36, of 1919 Hyde Park av., Readville, were treated and released there.

Most of those treated at Carney Hospital were apparently persons who escaped from the tunnel and didn't suffer the ill effects of fumes from the fire until they were on the way or had arrived home.

Many of those rescued stumbled out into Dewey square, their faces and hands blackened from smoke. Firefighters met them with inhalators.

Although only two alarms were sounded, Fire Chief George Paul called in eight extra ladder companies for their oxygen equipment.

It was very, very smoky," Chief Paul said.

An MBTA spokesman said the cause of the fire was a malfunctioning contact shoe on the third rail that "created an arc and set fire to hoses and grease."

He said the violent arcing and loud, thunder-like clap, coupled with the simultaneous closing of circuit breakers, gave many passengers aboard the train the impression that something had exploded. He said most of the damage was the result of the fire.

The reason for the faulty contact shoe was not immediately explained, but one source said initial inspection of the train showed the problem was linked to the age of the cars being used on the line.

Tricia O'Connor, 17, of 41 Acorn drive, Randolph, emerged from the tunnel and said, "I thought I was dead. I have asthma and could just barely breathe."

She said the train was just leaving South Station when "all of a sudden it stopped. It started sparking outside, and the lights were going on and off.

"Some people had babies in their arms, and the babies and even old men were crying," she said.

The train was halted about 60 yards from the South Station platform. MBTA employees, including several who had completed their shifts and were on their way home on the same train, led the passengers through the cars and out the rear door of the last car onto the tracks.

Power inside the tunnel was cut off, and the passengers were led up a short flight of ladder-steps to the station platform and then to the street.

Within minutes firefighters wearing gas masks and carrying lights entered the tunnel and began assisting in the rescue operation.

The fire was near the scene of another smoky subway blaze on Jan. 4, when an inbound train caught fire in the Dorchester tunnel, forcing more than 400 persons to walk a half-mile underground aided by MBTA and Fire Dept. personnel.

Two persons, one a fire fighter, were hospitalized in that blaze, which officials said was caused when the train's ice scraper came into contact with the electrified third rail.

In the aftermath of that fire, the MBTA claimed the Fire Dept. didn't respond quickly enough, and the Fire Dept. said the MBTA was slow in turning in alarm.

Last night, Chief Paul said he was "perfectly satisfied" with the way the MBTA handled the situation yesterday. He said there had been almost daily meetings between

MBTA and Fire Dept. officials since the last fire.

"I feel that we have worked out an excellent emergency procedure," he said. "It worked well today."

MBTA General Manager Joseph C. Kelly arrived at the scene yesterday afternoon to assist in supervising the rescue operation.

Henry Sears Lodge, MBTA board chairman, said last night, "I think the passengers and crew acted in extremely good fashion in getting out without a panic."

Lodge said the fire showed the need for modernizing the rapid transit system's outmoded equipment.

"When you're dealing with an old and neglected system, you can't insure total safety, but we have been doing a lot to improve safety," Lodge said.

The fire broke out just as the commuter rush hour was peaking. It caused a citywide traffic tieup.

Thousands of commuters had to leave subway stations and make their way home as best they could.

Hundreds of persons hitchhiked along Beacon and Charles streets. Cambridge street was almost impassable, causing difficulties for ambulances bringing fire victims to Massachusetts General Hospital.

One of the first actions taken by authorities was to block traffic at Summer street and Dorchester avenue at Dewey square. Summer street alongside South station quickly filled with fire apparatus and ambulances.

The traffic problem was compounded by motorists driving downtown to pick up stranded friends and relatives.

Telephone booths at Park street station and other locations had lines 10 deep with persons waiting to notify friends and family that they had been delayed.

The MBTA pressed buses into shuttle service. Quincy passengers were taken to Andrew station and Dorchester commuters to Columbia. Service remained open between Park street and Harvard, Joseph Malone, MBTA spokesman said.

He defended the actions of MBTA employees aboard the train, whom some passengers accused of reacting slowly.

CRITICISM FOR MBTA, PRAISE FOR PASSENGERS

The off-duty Boston policeman, who was not identified, was a passenger on the first car.

"Thank God he was there," said Barbara Gallagher, 48, of Mercier avenue, Dorchester. "He got all the people under control and told us not to panic.

"There he led us through into the other cars where the firemen were waiting."

Mrs. Gallagher, who was returning home from her job in Everett, also credited an MBTA employee with helping persons overcome by the smoke.

Mrs. Fuchs, who was treated for smoke inhalation at Massachusetts General Hospital said the conductor in the first car left the train and that the off-duty policeman took charge. She didn't know whether the conductor left to seek help.

"That policeman was wonderful. Give him a lot of credit. He knew just what to do. He yelled for everyone to be calm and lie down on the floor of the car.

"The smoke was so thick we couldn't see the people next to us, despite the fact we were all crowded into the middle of the car.

"Give the policemen and the firemen who rescued us a lot of credit. But the MBTA—I could kick them in the backside," she said.

However, another woman credited the MBTA employees with saving lives.

Marion Edney, 69, of Melville avenue, Dorchester, said she was very frightened by the experience. "Every once in a while," Mrs. Edney said, "the train would make a noise like it was going to explode."

MBTA patrolman John Peritzian, one of the first to reach the scene, said rescue of the passengers was hampered until the power could be shut off.

Peritzian entered the tunnel with firemen to aid the stranded passengers despite the smoke.

"We finally got in and tried to calm the people, but there was very little panic," Peritzian, a Plymouth resident, said.

"You've got to give those people a lot of credit for the situation they were in."

At first, there was apparent confusion as to whether the estimated 400 passengers on the four-car train should proceed to the front or the rear, two passengers said.

But after directions were given, said Joan McInness, 14, of North Weymouth, "there was a lot of pushing by people trying to get to the rear of the train.

"There was an old man who couldn't breathe and a young man helped him off the train," she said.

Robert Thomas, 46, of Topliff street, Dorchester, said the train caught fire about 100 yards out of South Station.

"The train slowed down and stopped, the lights started flickering and there were electrical, arcing noises," he said.

"A man from the MBTA kept hollering to let him through, then the lights went out. We were very lucky there wasn't a panic situation."

The train was filled with rush-hour passengers and there were people standing, said Louis Goodman, 56, of Randolph.

"The train began filling with smoke," he said. "But there wasn't any panic. People were telling each other to keep calm."

Goodman, who called the Ashmont trains a "death trap," criticized the MBTA for their handling of the accident.

"When I got on the train at Washington street, I noticed there were sparks flying underneath the train. Also, the lights on the train were flickering all the way from Washington street to South Station.

"I told the conductor and he ignored me," Goodman said.

The crew, according to Irv Hirschfeld, a Harvard Medical School professor, "didn't seem to know what to do" during the confusion right after the fire started. "The crew just didn't seem prepared for this kind of an emergency," he said.

"I thought the whole first car was on fire," the Dorchester resident said. "But the flames died down in about 30 seconds or a minute. It was really frightening because there was no place to go."

Hirschfeld, who believed the MBTA's electrical system must have gone "haywire," causing the fire, said: "I hope something is done about this, because this is the second fire in a month and there's something strange going on."

Estimates of the time involved between the start of the fire and the rescue of passengers by firemen through the smoke-filled tunnel ranged from 10 minutes to nearly a half-hour.

"Thank God I'm alive," said Diane Levine, 19, of Huntington avenue, Hyde Park. "I prayed and promised to give up smoking if I ever got out of there."

In contradiction to other comments, Miss Levine said: "People got hysterical. The smoke became very bad and someone said we would be led out of the car one at a time.

"But I'm not sure what happened next. I know I came outside at South Station and I ran to where my mother works—but I don't remember running.

"Thank God I'm alive," she repeated, adding: "I want my 25 cents back from the MBTA."

By Mr. HATFIELD:

S.J. Res. 54. A joint resolution repealing the Military Selective Service Act of 1967. Referred to the Committee on Armed Services.

S.J. Res. 55. A joint resolution proposing an amendment to the Constitution of the United States with respect to the conscription of persons for service in the military forces. Referred to the Committee on the Judiciary.

REPEAL OF THE SELECTIVE SERVICE SYSTEM

Mr. HATFIELD. Mr. President, I send to the desk two pieces of legislation relating to the abolition of the Selective Service System.

In his Inaugural Address on January 20, President Nixon declared that:

> We stand on the threshold of a new era of peace in the world.

Seven days later, American involvement in the Vietnam war ended and cease-fire was declared. And now perhaps we do have the chance to achieve a "generation of peace." Why then should we enter this new era of peace with an institution that exists to serve the ends of war? The President has also said:

> Unless we in America work to preserve the peace, there will be no peace.

Then why should our work for peace be impeded by the continued existence of the Selective Service System, particularly when there is no longer any need for a draft?

If we are to begin the works of peace, then let the task begin with the dismantling of this institution.

If we are to have peace, if, as Secretary of Defense Laird says, we are to have an all-volunteer force by the end of fiscal year 1973, then we no longer need the Selective Service System. From a broader perspective, I believe that an institution that conscripts men against their will to prepare them for war has no place in a free society that is working for peace.

It is particularly appropriate to examine the basic assumptions of the Selective Service System now that our involvement in Vietnam is over and the commitment to a volunteer army has been made. But whether or not this country is engaged in war, a compulsory draft is alien to our principles of freedom. As Senator ROBERT TAFT said:

> Military conscription is far more typical of totalitarian nations than of democratic nations. It is absolutely opposed to the principles of individual liberty, which have always been considered part of American democracy.

I would say that those principles are not merely a part of our democracy, but its very foundation.

And yet, looking over the record of the draft debates since World War II, I find very few statements dealing with the basic assumptions of a peacetime military draft, its domestic and foreign implications, and, most importantly, its implications for the individual in our society. Even during the 1971 debates in the House and the Senate, when extended debate created a 5-month period during which the President did not have authority to induct men into the Armed Forces, these questions were hardly raised.

Instead, the focus was on such issues as the needed manpower for our active

duty forces, the quality of men entering the Armed Forces, the racial mix, the economic mix, our reserve strength, medical facilities and personnel, and combat arms manpower requirements. All of these are important questions. However, they do not go to the root of the problem.

The central issue is the meaning of a free society and the institutions we create to insure the maximum freedom of choice for each individual. This, coupled with a deep distrust of centralized governmental power, were the cornerstones of our Declaration of Independence and the Constitution. The Selective Service System is a prime example of centralized governmental power that severely limits an individual's freedom, for it can take him from his home and against his will place him in the Armed Forces under circumstances where he may well lose his life.

In essence, conscription is a form of involuntary servitude. We theoretically abolished slavery after the War Between the States. That form of slavery was a form of economic servitude. But we have subsequently instituted an even more onerous form—military conscription—and rationalized it by saying it would enhance our freedoms at home and enable us to create freedom abroad. But we cannot try to defend freedom at home or create it abroad by taking it away from our own citizens—we cannot export what we do not have.

To attempt to do so is a contradiction of our 200-year history as a free nation. Too few of our citizens seem to remember that it was conscription that bought many of our original settlers to this land and was a major factor in precipitating two of our earliest wars—the Revolutionary War and the War of 1812.

To show the degree of confusion—and unfortunately, ignorance—surrounding the issues involved, we hear such phrases as "voluntary draft," "national obligatory service," and the like. But this is the language of totalitarianism. It is a form of blackmail: putting a gun to a person's head and saying he has a "free choice" to do what he deems best. What we have done is continue the rhetoric of democracy and republicanism, but have changed the definitions to apply to institutions that render them nearly meaningless. What is most tragic, however, is that this situation seems to attract little attention, let alone public outcry.

Now that we are paying first-term enlistees a wage comparable to what they could be earning in the civilian sector, we no longer need the draft to meet our military manpower requirements. Consequently, attention has focused on the need of the President to have the authority to induct men into the Armed Forces. This has been the focus of the Senate and House debates for the past 2 decades. Clearly there is no need for this authority. President Nixon himself has asserted this in recent years, beginning with his campaign in 1968. If there is not any need for the President to have the authority to induct men into the military, then I believe there is no reason why the draft structure should remain. We should take legislative action to return us to the traditions of peacetime America. Therefore, I am introducing legislation to repeal the Military Selective Service Act, thus dismantling the Selective Service System.

The ability of our Armed Forces to react quickly in time of danger has never depended upon the draft. It is impossible to do so, due to the time required to induct, train, and transport a man to the danger area. The draft has been used to sustain and gradually build up the active duty forces. Our policy has always been, and the realities of manpower development dictate, that the active duty forces, then the reserves, and then draftees would be used in time of danger.

This is precisely what former Secretary of Defense Laird repeated time and again. Whether or not the draft is on a standby basis, our ability to adequately rapidly meet a threat would not be hampered. The time to set up a system, give physical examinations and transport the men to their training stations would be virtually the same with or without a draft system continuing on a standby basis. The essential question, then, is why pay the money for it? There is simply no reason.

There is some indication that the administration is also aware of this fact. The proposed budget for fiscal year 1974 requests a $55 million appropriation for the Selective Service System, a one-third reduction below the fiscal year 1973 request.

There are also reports of plans to register only 100,000 men each year, with no physical examinations, no transporting of men to examining centers, no transporting of men to induction centers.

I cannot see any way in which this will help our defenses. To spend $55 million, for this purpose is not only a waste of money but counterproductive. In the remote chance that the Nation decides a draft is needed sometime in the future we can certainly set up a conscription system, register men, give physical examinations, train and transport them in virtually the same time as it would take if we continued limited registration. We were able to do so in 1917. Surely now, with our advanced technology, we could do so just as easily.

The actual life and death alternatives faced by a young man going into the Armed Forces during a time of war or national emergency is a most demanding personal question which each individual has to make. The alternatives are even more profound when a man is faced with induction during peacetime, when he could be drafted involuntarily and perhaps sent anywhere in the world to participate in a conflict about which he may have had no information previously.

I am therefore introducing another bill besides the repeal legislation. This is a constitutional amendment which would require a national referendum within 30 days after a request by the President to set up a draft system and induct men into the Armed Forces.

A national referendum would not only be consistent with our principles of democracy, it would strengthen them by giving the people more power to decide in what ways they will permit the Government to partially control their lives. This greater degree of involvement and responsibility for the people will serve to revitalize our commitment to democracy, and make us a stronger nation. To quote again from President Nixon's inaugural address.

> A person can be expected to act responsibly only if he has responsibility. This is human nature. So let us encourage individuals at home and nations abroad to do more for themselves, to decide more for themselves . . . Government must learn to take less from people so that people can do more for themselves.

I agree. The Government must learn to take less from the people, for the increase in recent years of street demonstrations and other forms of extra-electoral dissent indicate that the present system is not responding to the needs of the people. Our Founding Fathers foresaw the possibility of the republican structure becoming unrepresentative. James Madison's Federalist Paper No. 10 held that a republic was preferable to a pure democracy only so long as the representatives were wise and judicious men:

> Men of facetious tempers, of local prejudices, or sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people.

Madison noted that the final defense against such legislative abuse was the people. A national referendum such as I propose is consistent with this notion and would act as a check to the system when it fails to be responsive to the people's needs.

Since there may be occasion when there is not time to call for a national referendum on this question, I have made provision in the constitutional amendment that in case of invasion the President can request the authority from Congress. The authority would continue until the statute expired or until the Congress repealed the law.

The method of referendum is not an untried panacea, since it has been successfully implemented in this Nation's various States, as well as in Switzerland. Certainly a referendum could be used on the issue of military conscription, a question of great importance to every member of our society.

In the late 1930's Representative Louis Ludlow of Indiana proposed a constitutional amendment giving the people the sole power by a national referendum to declare war or to engage in war outside of the Western Hemisphere, except in the event of actual invasion of the United States. In 1938 the Ludlow amendment failed on a motion to discharge it from the Rules Committee by a vote of 188 to 209, after the intervention of President Franklin D. Roosevelt against the proposal. In the 75th Congress, Representative Hamilton Fish, Jr. introduced House Joint Resolution 576 providing for a referendum on military conscription for service overseas. In the same Congress, then Representative WARREN G. MAGNUSON introduced a joint resolution providing for a referendum on certain methods of warfare.

Mention can also be made of Senator Kenneth Champ Clark of Missouri, who introduced in the Senate a resolution providing for a referendum on the question of war and military conscription for service abroad. Further, in the 75th Congress Senators La Folette of Wisconsin, Bone of Washington, Capper of Kansas, Clark of Missouri, Donahey of Ohio, Frazier of North Dakota, Hitchcock of South Dakota, Lundeen of Minnesota, Murray of Montana, Nye of North Dakota, Shipstead of Minnesota, and Wheeler of Montana are joined in proposing a constitutional amendment for a referendum on war.

These are but a few examples of earlier proposals for national referendums on important issues. It is worth noting that most of these proposals came during the Populist-Progressive era, another time when there was great concern about the Government's responsiveness to the people. Therefore, my proposal for a national referendum on the draft is not a radical new departure, but an effort that has traditionally been made when the Federal Government has seemed to escape control by the people.

We are all aware of the way in which the executive branch of Government has usurped the Congress proper constitutional responsibilities for committing the Nation to war. The restoration of the intended constitutional balance requires strong initiatives. This is why I make such a proposal.

A national referendum would allow for greater congressional participation in a domestic question that greatly affects our foreign relations. If freedoms are taken away even temporarily, the Congress and the people should participate in the decisionmaking process to the greatest extent possible. For as Benjamin Franklin said:

> They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.

I ask unanimous consent that the text of these two pieces of proposed legislation be printed at this point in the RECORD.

I also ask unanimous consent that a study prepared by the Library of Congress on the Ludlow amendment be printed in the RECORD following these two joint resolutions.

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

S.J. RES. 54

Joint resolution repealing the Military Selective Service Act of 1967

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Military Selective Service Act of 1967, as amended, is repealed effective June 30, 1973.

S.J. RES. 55

Joint resolution proposing an amendment to the Constitution of the United States with respect to the conscription of persons for service in the military forces

Resolved by the Senate and House of Representatives of the United State of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Notwithstanding the provisions of section 8 of Article I of this Constitution relating to the authority of the Congress to raise and support Armies and except as provided in section 4 of this article, the Congress shall enact no law providing for the involuntary induction of persons into the military forces unless the enactment of such a law has been approved by a majority of the electors of the United States voting in a national referendum to determine whether the people of the United States favor such a law.

"SEC. 2. Whenever the President determines that, because of national security reasons, a law should be enacted authorizing the involuntary induction of persons into the military forces of the United States, he shall issue a proclamation to that effect, and on a day specified by him at least thirty days, but not more than ninety days after the issuance of such proclamation a special election shall be conducted in such manner as the Congress may prescribe by law to determine whether the people of the United States favor the enactment of a law authorizing involuntary induction of persons into the military forces. All persons qualified to vote for the electors of the President and Vice President shall be eligible to vote in any such election. If a majority of the persons voting in such election vote in favor of the enactment of such a law that Congress may enact such a law within one year after the date of the special election.

"SEC. 3. Whenever the Congress has enacted a law authorizing the involuntary induction of persons into the military forces of the United States following approval of such action by a national referendum and the authority under such law subsequently terminates, the Congress may not thereafter enact a new law providing for involuntary induction except pursuant to another national referendum approving enactment of such a law. Nothing herein shall limit the authority of the Congress to extend the time period of any such law if the induction authority under such law as originally enacted or amended has not expired.

"SEC. 4. The foregoing provisions of this article shall not apply to the authority of the Congress to enact a law providing for the involuntary induction of persons into the military forces of the United States to repel an actual invasion of the United States.

"SEC. 5. The Congress shall have the power to implement the provisions of this article by appropriate legislation."

THE LUDLOW AMENDMENT

During the first quarter of the 20th Century three new instruments of government rose to prominence in American politics. These instruments were the initiative, the referendum, and the recall.

South Dakota, in 1898, was the first state to adopt the initiative and referendum as instruments of state government. Since then, eighteen more states have adopted similar legislation, the last to do so being Massachusetts in 1918. Maryland and New Mexico have the referendum only.

Many proposals to adopt the initiative and/or referendum were made to Congress during the beginning of the century, but interest on such legislation diminished considerably following 1920.

Proposals for legislation providing for a national referendum on specific issues, however, have been made from time to time ever since. Prior and following World War I proposals for legislation providing for a referendum on war were a perennial feature of Congress. The most persistent and nearly successful attempt towards the adoption of a constitutional amendment for a referendum on war was made from 1936 to 1939. Representative Louis Ludlow of Indiana spearheaded the movement for such an amendment. Congressman Ludlow introduced to the 74th Congress (1st session) H.J. Res. 89, 159, and 167. These resolutions proposed an amendment to the Constitution of the United States with respect to the declaration of war and the taking of property for public use in time of war.

Representative Hamilton Fish, Jr., of New York introduced H.J. Res. 168 which provided for a popular referendum on war.

In the Senate, Senator Marvel Logan of Kentucky introduced S.J. Res. 7 which would give the people of the United States power to veto a declaration of war. All these resolutions died in committee.

Congressman Ludlow introduced H.J. Res. 2 and 199 during the first session of the 75th Congress and Congressman Fish introduced H.J. Res. 63. These resolutions were in substance similar to the ones introduced during the previous Congress. Representative Francis H. Case of South Dakota introduced the so-called "Unknown Soldier" amendment which would give to the people the right to declare war.

During the second session of the 75th Congress the following resolutions were introduced:

S.J. Res. 218 (Senator Robert M. La Follette, Jr., of Wisconsin) proposing an amendment to the Constitution to provide for a referendum on war.

S.J. Res. 221 (Senator Joel Bennett Clark of Missouri) providing for a referendum on war and conscription of citizens for military duty abroad.

H.J. Res. 498 (Representative William A. Ashbrook of Ohio) providing for a referendum to limit conscription and undeclared war.

H.J. Res. 502 (Representative Edward C. Eichter of Iowa) providing for a referendum on war.

During the third session of the 75th Congress Senator La Follette of Wisconsin introduced for himself and for Senators Homer T. Bone of Washington, Arthur Capper of Kansas, Joel Bennett Clark of Missouri, Alvin V. Donahey of Ohio, Lynn J. Frazier of North Dakota, Herbert B. Hitchcock of South Dakota, Ernest Lundeen of Minnesota, James E. Murray of Montana, Gerald P. Nye of North Dakota, Henrik Shipstead of Minnesota, and Burton K. Wheeler of Montana, S.J. Res. 270 proposing an amendment to the Constitution for a referendum of war.

Representative Warren G. Magnuson of Washington introduced H.J. Res. 565 providing for a referendum on certain methods of warfare.

Congressman Fish introduced H.J. Res. 576 providing for a referendum on draft for services overseas.

On January 6, 1938, President Franklin Delano Roosevelt in a letter to the Speaker of the House of Representatives, William B. Bankhead, opposed the Ludlow amendment and other similar resolutions as "impracticable in its application and incompatible with our representative form of government." Following a reading of this letter on the floor, the House defeated a motion to discharge the Committee on Rules from further consideration of the bill by a vote of 188 to 209, although previously 218 members had signed a discharge petition.

During the 76th Congress another attempt was made to bring about passage of the Ludlow amendment.

Congressman Ludlow introduced H.J. Res. 89. The text of the resolution was as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by convention in three-fourths of the States as provided in the Constitution:

"ARTICLE —

"SECTION 1. Except in case of invasion by armed forces, actual or immediately threatened by an approaching military expedition, or attack upon the United States or its Territorial possessions, or by any non-American nation against any country in the Western Hemisphere, the people shall have the sole power by a national referendum to declare war or to engage in warfare overseas. Congress, when it deems a national crisis to exist in conformance with this article, shall by concurrent resolution refer the question to the people.

"SEC. 2. Congress shall by law provide for the enforcement of this section.

"SEC. 3. This article shall become operative when ratified as an amendment to the Constitution by convention in the several States, as provided in the Constitution."

Senator La Follette introduced for himself and for Senators Bone of Washington, Capper of Kansas, Clark of Idaho, Clark of Missouri, Donahey of Ohio, Frazier of North Dakota, Lundeen of Minnesota, Murray of Montana, Nye of North Dakota, Shipstead of Minnesota, and Wheeler of Montana, S.J. Res. 84. The text of the resolution was as follows:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Except in case of attack by armed forces, actual or immediately threatened, upon the United States or its Territorial possessions, or by any non-American nation against any country in the Western Hemisphere, the people shall have the sole power by a national referendum to declare war or to engage in warfare overseas. Congress, when it deems a national crisis to exist in conformance with this article, shall by concurrent resolution refer the question to the people.

"SEC. 2. Congress shall by law provide for the enforcement of this section.

"SEC. 3. This article shall become operative when ratified as an amendment to the Constitution by convention in the several States, as provided in the Constitution."

By Mr. CRANSTON:

S.J. Res. 56. A joint resolution to authorize the President to proclaim the week containing February 12 and 14 as Afro-American History Week. Referred to the Committee on the Judiciary.

Mr. CRANSTON. Mr. President, I introduce for appropriate reference, a joint resolution authorizing the President to proclaim that each year, the 7-day period from Sunday to Saturday containing the dates of February 12 and February 14, be designated Afro-American History Week.

Next week will be the 47th anniversary of Afro-American History Week. It has been observed in many communities throughout the Nation since 1926, when Dr. Carter G. Woodson published some data emphasizing the historical contributions black people have made to enrich the lives of all Americans. Dr. Woodson was the founder of the Association for the Study of Afro-American Life and History, the organization that cosponsors Afro-American History Week with the National Education Association.

Dr. Woodson's action in 1926 was warmly received by the black community. Gradually, Afro-American History Week gained the support of many nonblack institutions in the United States and abroad. Today, the observance enjoys widespread acceptance. At least 13 Governors and 25 mayors have proclaimed Afro-American History Week in their jurisdictions.

The week is planned to coincide with the birthdays of Abraham Lincoln, February 12, and Frederick Douglass, Februrary 14. The theme of this year's observance is "Biography Illuminates the Black Experience."

Mr. President, the enactment of this joint resolution would greatly advance this observance and lead to better interracial understanding in America.

Americans should know more about the great contribution black scholars, writers, inventors, athletes, and many others have made to this country. Consider, for example, this brief list of inventions in every day use that were the product of black genius:

Harvesting machine—William Douglas.
Telephone receiver—Granville Woods.
Fountain pen—William Purvis.
Parachute—H. Julian.
Alarm clock—Benjamin Banneker.
Gas mask—Garrett Morgan.
Tabulating machine—Robert Pelham.
Corn planter—H. Blair.
Street sweeper—C. B. Brooks.
Lawn mower—G. F. Grant.
Elevator—A. Miles.
Clothes dryer—G. T. Sampson.
Fire escape ladder—J. R. Winters.
Machinery for mass-producing shoes—Jan Matzeliger.

In addition, Mr. President, it was George Washington Carver whose agricultural reforms pulled the Southern States out of bankruptcy after the Civil War. Even the design for the city of Washington, D.C., was reconstructed from memory by a brilliant free black named Benjamin Banneker after the French architect refused to finish the job.

I think you will agree, Mr. President, that Afro-American History Week is worthy of congressional support. I ask unanimous consent that the text of the joint resolution to proclaim Afro-American Week be printed in the CONGRESSIONAL RECORD.

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

S.J. RES. 56

Whereas Afro-Americans have made outstanding but little known contributions to the History of the United States;

Whereas an appreciation of this heritage and contribution is essential to the development of a sense of worth and pride in any group;

Whereas Afro-American Week has been observed throughout the United States since 1926 during the period which includes the birthdays of Abraham Lincoln and Frederick Douglass, February 12 and February 14 respectively; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the seven-day period from Sunday to Saturday during which February 12 and February 14 fall, be designated "Afro-American History Week."

The President is authorized and requested to issue an annual proclamation calling upon the people of the United States to observe such week with appropriate activities.

By Mr. BARTLETT:

S.J. Res. 57. A joint resolution proposing an amendment to the Constitution of the United States relating to prayer in public schools. Referred to the Committee on the Judiciary.

Mr. BARTLETT. Mr. President, today I introduce a constitutional amendment which, if passed, will insure to every person his inherent freedom to pray. The freedom to pray will mean that our schoolchildren will be guaranteed their right to participate voluntarily in prayer.

This constitutional amendment is necessary in view of the Supreme Court rulings which forbid prayer in public schools. There is something wrong in America when free speech protects the right to utter obscenities yet does not protect the right to pray. This amendment will assure our schoolchildren their right to pause at the beginning of the school day to offer thanks to their Creator.

I ask unanimous consent that the text of the proposed amendment be printed in the RECORD.

S.J. RES. 57

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. No provision of this Constitution shall abridge the inherent freedom of persons to pray. The freedom of prayer shall include the right of persons lawfully assembled in any public school or other public building to participate voluntarily in nondenomination prayer."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 4

At the request of Mr. WILLIAMS, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 4, the Retirement Income Security for Employees Act of 1973.

S. 12

At the request of Mr. WILLIAMS, the Senator from Hawaii (Mr. INOUYE) and the Senator from Iowa (Mr. HUGHES) were added as cosponsors of S. 12, the Urban Parkland Heritage Act of 1973.

S. 40

At the request of Mr. BROCK, the Senator from Tennessee (Mr. BAKER), the Senator from Florida (Mr. CHILES), the

Senator from Nebraska (Mr. CURTIS), the Senator from Georgia (Mr. NUNN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Virginia (Mr. SCOTT) were added as cosponsors of S. 40, a bill to improve and implement procedures for fiscal controls in the U.S. Government, and for other purposes.

S. 41

At the request of Mr. DOLE, the Senator from Florida (Mr. GURNEY) was added as a consponsor of S. 41, a bill to designate November 11 of each year as Veterans Day and to make such day a legal public holiday.

S. 44

At the request of Mr. DOLE, the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Georgia (Mr. NUNN), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 44, a bill to amend the Small Business Act to increase the availability of management counseling to small business concerns.

S. 159

At the request of Mr. DOLE, the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Utah (Mr. Moss), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 159, a bill to provide for reimbursement of extraordinary transportation expenses incurred by certain disabled individuals in the production of their income.

S. 176

At the request of Mr. HARTKE, the Senator from Montana (Mr. METCALF), was added as a cosponsor of S. 176, a bill to amend title 38, United States Code, to provide for a special addition to the pension of veterans of World War I and to the pension of widows and children of veterans of World War I.

S. 255

At the request of Mr. EAGLETON, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 255, a bill to repeal certain provisions which become effective January 1, 1974, of the Food Stamp Act of 1964 and section 416 of the Agricultural Act of 1949 relating to eligibility to participate in the food stamp program and the direct commodity distribution program.

S. 275

At the request of Mr. HARTKE, the Senator from Oregon (Mr. HATFIELD), and the Senator from Nevada (Mr. CANNON), were added as cosponsors of S. 275, a bill to amend title 38 of the United States Code increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation.

S. 316

At the request of Mr. BUCKLEY, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 316, the Eastern Wilderness Areas Act.

S. 418

At the request of Mr. BELLMON, the Senator from Colorado (Mr. DOMINICK), the Senator from Nebraska (Mr. HRUSKA), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PASTORE), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 418, a bill to reinstate the emergency loan program of the Farmers Home Administration.

S. 425

At the request of Mr. ROBERT C. BYRD (for Mr. RIBICOFF), the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 425, a bill to establish a Department of Health.

S. 491

At the request of Mr. BEALL, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 491, the Older Americans Comprehensive Services Amendments of 1973.

S. 514

At the request of Mr. Moss, the Senator from South Carolina (Mr. HOLLINGS), was added as a cosponsor of S. 514, a bill to amend the act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

S. 548

At the request of Mr. HUMPHREY, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 548, a bill to provide price support for milk at not less than 85 percent of the parity price therefor.

S. 580

At the request of Mr. PERCY, the Senator from Michigan (Mr. HART) and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 580, a bill to establish an Institute for Continuing Studies of Juvenile Justice.

S. 586

At the request of Mr. DOMINICK, the Senator from Oregon (Mr. HATFIELD), the Senator from Tennessee (Mr. BROCK), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 586, a bill to amend the Occupational Safety and Health Act of 1970.

S. 632

At the request of Mr. WILLIAMS (for Mr. CHURCH) the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 632, a bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings, and for other purposes.

S. 653

At the request of Mr. BELLMON, the Senator from Missouri (Mr. EAGLETON), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 653, a bill to prohibit the impoundment of funds from the highway trust fund.

S. 667

At the request of Mr. RANDOLPH, the Senator from West Virginia (Mr. ROBERT C. BYRD) was added as a cosponsor of S. 667, a bill to amend the Public Health Services Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation.

S. 744

At the request of Mr. RANDOLPH, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Maine (Mr. HATHAWAY) were added as cosponsors of S. 744, a bill to provide a mechanism to improve health care in rural areas through the establishment of the Office of Rural Health Care in the Department of Health, Education, and Welfare and a National Council on Rural Health, and for other purposes.

S. 762

At the request of Mr. HARTKE, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 762, the military recomputation bill.

SENATE JOINT RESOLUTION 3

At the request of Mr. DOLE, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of Senate Joint Resolution 3, a joint resolution to provide for a 1974 centennial celebration observing the introduction into the United States of Hard Red Winter wheat.

SENATE JOINT RESOLUTION 4

At the request of Mr. DOLE, the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Utah (Mr. BENNETT), the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. COOK), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Arizona (Mr. FANNIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Florida (Mr. GURNEY), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of Senate Joint Resolution 4, a joint resolution to authorize and request the President to issue a proclamation designating a week as "National Welcome Home Our Prisoners Week" upon the release and return to the United States of American prisoners of war in Southeast Asia.

SENATE JOINT RESOLUTION 11

At the request of Mr. HOLLINGS, the Senator from Maryland (Mr. BEALL), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Arizona (Mr. FANNIN), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), the Senator from South Carolina (Mr. THUR-

MOND), the Senator from Texas (Mr. TOWER), and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Joint Resolution 11, a joint resolution paying tribute to law enforcement officers of this country on Law Day, May 1, 1973.

SENATE JOINT RESOLUTION 20

At the request of Mr. GRIFFIN (for Mr. BROOKE), the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 20, a joint resolution designating January 15 of each year as "Martin Luther King Day."

SENATE CONCURRENT RESOLUTION 11—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE U.S. FISHING INDUSTRY

(Referred to the Committee on Commerce.)

Mr. EASTLAND (for himself, Mr. MAGNUSON, Mr. WILLIAMS, Mr. STENNIS, Mr. JACKSON, Mr. ERVIN, Mr. TALMADGE, Mr. LONG, Mr. SPARKMAN, Mr. MANSFIELD, Mr. ROBERT C. BYRD, Mr. SCOTT of Pennsylvania, Mr. RANDOLPH, Mr. MCCLELLAN, Mr. MCGEE, Mr. EAGLETON, Mr. KENNEDY, Mr. THURMOND, Mr. HOLLINGS, Mr. ALLEN, Mr. PASTORE, Mr. JOHNSTON, Mr. GURNEY, Mr. CHILES, Mr. TUNNEY, Mr. CRANSTON, Mr. GRAVEL, Mr. STEVENS, Mr. MUSKIE, Mr. HATHAWAY, Mr. FONG, Mr. INOUYE, Mr. BENTSEN, Mr. TOWER, Mr. NUNN, Mr. JAVITS, Mr. HARRY F. BYRD, JR., Mr. HATFIELD, Mr. PACKWOOD, Mr. HELMS, Mr. BEALL, and Mr. BIDEN) submitted the following concurrent resolution:

S. CON. RES. 11

Whereas the position of the United States in world fisheries has declined from first to seventh place among the major fishing nations;

Whereas there has been a continuing decline in domestic production of food fish and shellfish for the last five years;

Whereas our domestic fishing fleet in many areas has become obsolete and inefficient;

Whereas intensive foreign fishing along our coasts has brought about declines in stocks of a number of species with resulting economic hardship to local domestic fishermen dependent upon such stocks;

Whereas rising costs and extremely high insurance rates have made fishing uneconomic in some areas even when stocks of fish and shellfish are at normal levels;

Whereas assistance to fishermen is very limited as contrasted to Federal aid to industrial, commercial and agricultural interest;

Whereas United States fishermen cannot successfully compete against imported fish products in the market because a number of foreign fishing countries subsidize their fishing industry to a greater extent;

Whereas some 60 per centum of the seafood requirements of the United States is being supplied by imports;

Whereas the United States fisheries and fishing industry is a valuable natural resource supplying employment and income to thousands of people in all of our coastal States;

Whereas our fisheries are beset with almost insurmountable production and economic problems; and

Whereas certain of our coastal stocks of fish are being decimated by foreign fishing fleets: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the policy of the Congress that our fishing industry be afforded all support necessary to have it strengthened, and all steps be taken to provide adequate protection for our coastal fisheries against excessive foreign fishing.

SEC. 2. The Congress also recognizes, encourages, and intends to support the key responsibilities of the several States for conservation and scientific management of fisheries resources within United States territorial waters; and in this context the Congress particularly commends Federal programs designed to improve coordinated protection, enhancement, and scientific management of all United States fisheries, both coastal and distant, including presently successful Federal aid programs under the Commercial Fisheries Research and Development Act of 1964, and the newly developing Federal-State fisheries management programs.

Mr. EASTLAND. Mr. President, I offer, for myself and 41 of our colleagues, a concurrent resolution which I hope—and believe—will launch a nationwide program to save our commercial fishing industry and serve our sport fishing industry.

I used the phrase "to save our commercial fishing industry" deliberately. In my judgment—it is not morning or mid-day in the industry in this country. Sadly, it is almost sunset for seafood operations in our Nation.

Let us look at where we stand today.

While the world catch has doubled over the last 10 years, ours has declined.

We have plunged from first to seventh place—and—have become the biggest importers of fish products. We bring in 60 percent of our consumption—a situation which faces us with an annual balance-of-payments drain of approximately a billion dollars.

Tiny Peru reaps the richest tonnage harvest—selling much of it to the United States, Japan benefits from an ocean crop worth $2½ billion. The Soviet Union is third and China fourth. Norway's fishermen range the high seas in new boats—and increased their catch 20 percent in 1 year.

Not Soviet boats—Mr. President—but Soviet fleets work the waters off Washington and Oregon as well as off New England. Russians are scooping up countless tons of aquatic products up and down our west coast and along the Atlantic seaboard. Additionally, Soviet sponsored Cuban craft are operating in and near the Gulf of Mexico. As a measure of the Russian effort, fishing has become the fourth-highest-paid industry in the U.S.S.R.

In little more than a decade the Japanese have doubled and modernized their fleet. Three thousand vessels roam the Earth's deep waters—and bring an economic bonanza home to Japan.

Now—have these and other extensive operations depleted ocean stocks? To the contrary—Mr. President—our experts contend that the present world catch could be tripled without impairing future resources. The American industry could—indeed—quintuple its harvest without even leaving our own shores.

We are confronted with a major problem—and—a glowing opportunity.

I am convinced that we are moving—today—to solve the problem and to seize the opportunity. Forty-two Members of this body joined in offering this resolution. I am pleased to say that the sponsors include the bipartisan leadership of the Senate—13 of our standing committee chairmen—and Senators from both parties representing 21 of our seacoast States.

Here is our approach.

We do not propose—now—or later—to tell the commercial and sport fishing industries what they need.

Our purpose is to learn from leaders and participants in both industries what they need—and to do all we can to transform their proposals into a sound, ongoing program aimed at attaining the goals we all seek.

We must deal with a variety of wide-ranging but interrelated difficulties—difficulties of a most serious nature.

Declining production, an outmoded fleet, lack of diversification, undefined fishing boundaries, pollution, inadequate funding for research—this is only a partial list of the difficulties which threaten to drown commercial operations and to penalize sport fishing activities.

How do we attack this range of problems?

First. I submit that patchwork programs and piecework solutions will not do this job. It is simply too late in the day for these types of measures.

Second. I recommend against sectional, one-shot solutions. Even when effective, this approach has provided—at best—temporary relief from continuing problems. Further—the answer for today only—in one fishery—in one part of our land does not move us—as we must move—toward national revitalization in the present and growth and expansion in the future.

If we are to succeed in this mission we must reach a broad spectrum of Americans engaged in fishing and related activities to secure their advice and guidance in the formulation of our program. Unless each need is met, and each segment of fishing protected and promoted, we will not have done all that needs doing.

Is there—in existence, and able to implement our proposal—a vehicle to carry the effort?

Mr. President, there is such a vehicle, and it is—I am delighted to say—thoroughly competent to contribute immeasurably to the winning of our battle.

I suggest the utilization of the Atlantic State Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, and the Pacific Marine Fisheries Commission as our Board of Directors for this worthy undertaking.

These federally recognized entities—which enjoy the support of their member States—represent almost every State with a sea boundary—half of this Union of ours.

I have met with—and corresponded with—the Executive Directors of the three Commissions to explore this concept. Irwin Alperin of Atlantic; my friend, Joe Colson of Gulf, and John Harville of Pacific—have indicated approval of the approach and of their willingness to work with us. We have received similar expressions from the National Oceanic and Atmospheric Administration.

Let me state—without reservation—that these gentlemen are talented, experienced, and energetic leaders who are dedicated to our goal of restoring America to her rightful position in the first rank of the world's fishing nations.

Now—mechanically—how can the Commissions aid us to gather the facts, the ideas and suggestions, the wealth of information we must obtain from every corner of our country?

With very limited financial support from Congress, officers, members, and the directors of the Commissions can meet—each in his own area—with fishermen, gear manufacturers, boat builders, suppliers, canners, processors, distributors—indeed—with representatives of every segment and stage of the industry.

Sport fishing interests would, of course, be included, and their requirements incorporated into our priorities.

The full participation of each of our State regulatory agencies would have to be a cornerstone of our effort as would equally strong participation on the part of environmental leadership everywhere.

We would need, in fact, we could not be without, maximum cooperation and support from our colleges, universities, and laboratories in obtaining and utilizing scientific and technical advice and direction.

Following these meetings on the Atlantic seaboard, in the gulf area, and on the Pacific coast, I would suggest the selection from each group of a steering or executive committee to represent the views and needs of all engaged in or affected by any aspect of fishing operations in every region of this country.

The three executive or steering committees would then meet in Washington or at a suitable location with top officials of the National Oceanic and Atmospheric Administration. In a meeting or series of meetings, I am confident that the national program we must have could be hammered out for presentation to the Congress.

Mr. President, if such a program can be developed and I believe it can, we will have saved an industry which has been part of the fabric of America since our forefathers came to these shores.

It is imperative that we launch our effort now.

There is general agreement among all we have consulted, including the three compact commissions, that the necessary first step should be the establishment of a national policy, stating in the forthright fashion our people appreciate that this Nation wants and will have a strong commercial fishing industry.

The concurrent resolution we introduce today will establish that policy.

It sets out, also in an equally forthright manner, our firm intention of respecting and safeguarding the long recognized position and authority of the States in the formulation and execution of our program.

Millions of Americans depend on fishing operations for a livelihood. The work is hard, sometimes very dangerous, and the hours are long. These men and women have never received and they neither expect nor want handouts from Washington or elsewhere.

Surely, though Mr. President, men who bet their lives against wind and water, men who go down to the sea in ships and in small boats along with those associated with them have earned and deserve our assistance.

In the hope that we will assist every person involved, directly or indirectly, in American fishing activities from Maine to Hawaii, from Alaska to Florida, and in what I sincerely believe to be the best interest of the United States. I appeal for early and favorable consideration of this concurrent resolution.

Mr. HATFIELD. Mr. President, I am pleased to join with the distinguished senior Senator from Mississippi, (Mr. EASTLAND) in sponsoring his thoughtful proposal setting forth our support for a revitalized commercial fishing industry.

My colleagues have heard me speak many times on this floor about the plight of our beleaguered commercial fishing industry. It is an industry of small businessmen who see their livelihood disappearing from pressures of imported fish products and of foreign fishing fleets operating off our coasts.

I live on the Oregon coast, in Newport, Oreg. I know from conversations I have when I am home with my hometown friends who depend upon commercial fishing for their living. They relate to me the problems they have in keeping up with the declining fish population available to our vessels, their increased costs, threats of overly restrictive inspection legislation, and the assorted other problems they face.

Mr. President, our commercial fishing industry is headed toward extinction. We have to either take steps to revive it, or we can kiss it goodby. I, for one, will fight to revive it to a prominent position.

My colleague from Mississippi addresses his remarks to the problem from a national perspective, and I salute him for this. Too often, it is Senator MAGNUSON, Senator STEVENS, and me pressing the case of the Northwest fishermen, New Englanders working on behalf of the problems facing them, Gulf coast and Southern Senators working on problems localized in their areas. This system has continued too long, and I am as much a part of it as anyone. We are past the point, however, of solving problems of Northwestern fishermen without recognizing the interrelationship with all other fishermen in the country.

I note this, because I believe that the impressive roster of supporters for Senator EASTLAND's bill—over 40 cosponsors calls attention to the national scope of the problem in a clear way. If we went around this chamber and each coastal Senator stood up and described the problems facing his local fishing industry, there would be much more in common than there would be in specific local problems. I salute the senior Senator from Mississippi for uniting us in what I hope will be the first concrete steps of many to help revitalize the commercial fishing industry.

As an indication of the situation that faced the industry, preliminary plans for the U.N. Law of the Sea Conference omitted any representation of the commercial fishing interests—vitally affected by any decisions reached by the U.N. conference. My colleagues recall my Senate Resolution 203 last year, cosponsored by a number of you familiar with the problem, calling for inclusion of commercial fishing interests as a part of the U.S. delegation. I was pleased to report to the Senate in December 1971 that reconsideration had been given and that plans were made to include commercial, fishing interests. Recently I requested a status report on the success of this move, and I will share with my colleagues the response I receive.

Mr. President, I cannot overstate the seriousness of the situation of foreign fishing fleets operating off our shores and vacuuming up every fish in sight with their modern and efficient equipment. Oregon's commercial fish catch has dropped by nearly half since the Russians began scouring our coastal waters.

I ask unanimous consent that a table describing this decline in fish catch be printed at this point in the RECORD.

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

LANDINGS BY OREGON FISHERMEN FROM OFF WASHINGTON AND OREGON, MAY 31, 1972

	1965	1966	1967	1968	1969	1970	1971
Pacific Ocean perch:							
Landings [1]	13.5	3.8	1.6	0.8	0.6	0.6	0.9
Catch rate [2]	1,200	1,000	700	400	400	300	300
Other rock fish: Landings [1]	4.0	4.8	4.0	3.6	4.0	3.1	2.9
Arrowtooth flounder: Landings [1]	2.3	2.2	2.1	1.0	.9	.4	.5
Total, all species:							
Landings [1]	32.5	24.2	20.3	13.2	19.8	18.4	18.6
Catch rate [2]	1,100	1,100	1,000	800	800	700	700
Hours fished [3]	28.5	22.6	19.6	22.4	24.2	25.9	26.7

[1] Landing figures represent millions of pounds.
[2] Catch rate, unit of effort/pound per hour.
[3] Hours fished figures represent thousands of hours.

Mr. HATFIELD. Mr. President, again I wish to commend the able and distinguished senior Senator from Mississippi for his leadership. A national effort must be taken to solve this problem, and I believe this resolution does just that. I ask unanimous consent that the text of the resolution appear at this point in the RECORD.

In closing, Mr. President, I wish to express my hope that this body will act with dispatch on this proposal. To commercial fishermen today, the future looks bleak at best. Adoption of this resolution would offer hope that we as a Congress

will act in a way that will reverse the long decline the industry has faced.

Mr. President, joining Senator EASTLAND as another cosponor is my distinguished colleague from Oregon, Senator PACKWOOD. He shares my concern for the future of the commercial fishing and seafood processing industry in Oregon. Unfortunately, he is unable to be here today, and I ask that his statement in support of the Eastland proposal be printed at this point in the RECORD.

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

THE SEAFOOD INDUSTRY

(Statement by Senator PACKWOOD)

Mr. President, I rise today to support the Concurrent Resolution introduced by the distinguished senior Senator from Mississippi, Senator Eastland.

It seems to me that this Resolution is remarkable in at least two ways. First, it addresses in a broadly-based fashion the problems of our national seafood industry—problems that have only been examined before on a piece-meal basis. As you know, this industry is of great importance to the State of Oregon. The fishermen of my state have for too long struggled with their problems without a comprehensive and coordinated national program to assist them. I have introduced and co-sponsored a number of pieces of legislation since I became a Member of the Senate in 1969 designed to alleviate some of these problems, and I intend to introduce another such measure in the near future. But I welcome, as I am sure do the fishermen of my great state, this first step to develop a rational plan to benefit the seafood industry of the United States.

The second noteworthy thing about this Resolution is that it is a genuine attempt by the Congress to address a national problem by articulating a national policy. Too often we seem to stand back and let either the executive branch or private industry set the policies and priorities in this country. I strongly support efforts such as this to turn the attention of the Congress to stating policies and priorities.

This Resolution in essence says that as a matter of policy this nation WANTS a seafood industry. Considering the state that this industry is in at the present time, that statement is not as obvious as it may seem.

I think it has been painfully apparent to my colleagues, especially those from maritime states, that our national seafood industry has been too often ignored by the Federal Government. It appears to have virtually no priority at all. I say ignored because no federal action has been taken effectively to halt the foreign fishing operations that regularly wreak havoc with the fishing industry of my State and of many others. Ignored because no representative of the fishing industry was even included in the original make-up of the United States delegation to the 1973 United Nations Law of the Sea Conference in Geneva. Happily, this matter has now been righted and representatives of our commercial fishing industry will be included in the delegation. But just imagine, we had to plead for them to be included. Representatives of the industry most interested in and most affected by the sea . . . and we had to plead to have them included. Talk about being ignored!

It is almost unbelievable to me that so few efforts are being made by the Federal Government to protect and preserve the interests of our seafood industry. I have charged in previous speeches that the Federal Government has consistently done too little, too late to protect the fishing industry . . . an industry that affords employment to thousands of domestic fishermen in this country, as well as to the processors, boat builders, and the many others concerned with seafood.

In other speeches in the Senate, I have maintained that Congress must provide the leadership for the seafood industry because the Federal Government has failed to do so. It is for this reason that I particularly wish to commend my distinguished colleague, Senator Eastland, for his approach to this problem. The concept of using the three federally-recognized Marine Fisheries Commissions as the vehicle for developing and refining a national policy is both sensible and sound.

These entities are already in being and already in contact with various aspects of the fisheries industry's problems. Certainly none of us pretend that the fishermen of our nation speak with a single voice or that the various fishing regions of the country are not plagued with diverse and distinct problems. But using the three regional Marine Fisheries Commissions to pull together representatives from all those groups concerned with seafood in the various regions seems to me, an admirable and sensible first step toward getting a handle on the scope of the problem nationally.

While this process is under way, I will continue to make and will continue to support proposals aimed at curbing some of the most blatant problems of the industry—unfair and discriminatory tariff regulations, uncontrolled foreign exploitation of our national resources, and unthinking Federal policies that appear to ignore the best interests of our seafood industry.

I strongly believe, however, that this Resolution is a major step forward toward developing a rational, national policy. We must have such a policy quickly, before the manifest ills of the seafood industry prove fatal. In consequence, I urge my colleagues in the Senate to move with all due speed to enact this Concurrent Resolution so that we may get down to work at once.

Mr. WILLIAMS. Mr. President, I am very pleased to join Senator EASTLAND as a sponsor of this legislation to initiate a nationwide program to preserve and expand our fishing industry. I fully agree that commercial and sport fishing in America is seriously threatened by the lack of a comprehensive program to preserve this industry.

Our commercial and sports fishermen have been complaining in recent years that we have been losing our rightful place as a leader among the world's fishing nations. I have received hundreds of letters from fishermen in New Jersey expressing alarm at the poor condition of the industry there, and I am convinced that we must act to solve this problem for our American fishermen.

Intensive fishing by fleets of other nations, the use of modern equipment by those fleets, the pollution of our oceans, and overfishing of certain fish species have all contributed to the problems now facing American fishermen.

The principal cause of the declining market for U.S. fishermen has been the great effort of other nations to improve their fishing fleets. That effort by foreign nations was given impetus by an expanding market for fish products, technological advances, greater capitalization of foreign fishing industries, and strenuous competition between national fleets. In recent years the consumption of fish products has increased approximately 6 percent annually. Since 1945, the world catch has increased almost 300 percent. The international trade in fishing products reached $2 billion in 1965, and it continues to increase.

U.S. fishermen have been particularly threatened by these developments. While the world fish catch increased from 43 billion to 123 billion pounds since 1945, the U.S. catch has remained relatively constant at 4 to 5 billion pounds. We have dropped from first to seventh place among the fishing nations, and we now import nearly three-fifths of the fish this Nation consumes.

There are several excellent reasons to revitalize and expand our fishing industry. These include the advantage of saving the billion dollars yearly we now spend abroad to buy fish caught by foreign fleets; the benefit from having an enormous portion of our protein supply delivered by domestic sources; and the fact that fishing has been such an important part of our economic life throughout our Nation's history. These arguments have great merit, and I am in complete agreement with them.

However, it is of utmost importance to me to meet the threat that the decline of the fishing industry presents to our national labor market. Not only does the decline of this industry threaten the jobs of the fishermen who labor so arduously, often facing great dangers for an uncertain return, but it also threatens the livelihoods of all those in related industries. Those who work in gear manufacturing, canning, processing and distributing fish products are also adversely affected. The decline of domestic fishing activity ultimately affects millions of American workers.

As the chairman of the Senate Committee on Labor and Public Welfare, I will state unequivocally that more unemployment is the last thing this Nation can afford.

Therefore, I am giving my total support to a revitalization of the U.S. fishing industry, and I urge that this be made a national commitment of the highest priority.

NOTICE OF HEARINGS ON HUMAN EXPERIMENTATION

Mr. KENNEDY. Mr. President, I wish to announce that the Health Subcommittee, of which I am chairman, will hold hearings on the subject of human experimentation on February 20, 21, and 22, 1973. These hearings will focus both on the rights of subjects of biomedical research and on the need for continuing technological advances in medicine.

Those individuals and associations wishing to offer testimony to the subcommittee in respect to these hearings should contact the Senate Health Subcommittee, room 4226, Dirksen Building.

NOTICE OF HEARINGS ON THE FARM PROGRAM AND OTHER ISSUES

Mr. TALMADGE. Mr. President, the Committee on Agriculture and Forestry will hold hearings on the farm program and other issues on February 27, 28, March 1, 2, 8, and 9. Since the administration has not proposed a farm bill this year, the committee will use as a basis for the hearings, S. 517, a bill that

would extend our present commodity programs for 5 years. The committee will hear from public witnesses on the renewal of the farm program, export subsidy programs, the sale of wheat to Russia, Public Law 480, environmental protection, consumer protection, the food stamp program, the child nutrition programs, and rural development.

In regard to the farm program, the committee is particularly interested in hearing the testimony of genuine "dirt farmers." Farmer organizations are requested to bring practicing farmers to testify as their spokesmen.

The hearings will be in room 324, Russell Building, beginning at 10 a.m. each day. Since a large number of witnesses will wish to be heard and because of the committee's need to act promptly on the extension of a farm program, witnesses will be limited to 10 minutes for their oral presentation. Anyone wishing to testify should contact the committee clerk as soon as possible.

Mr. President, it is hoped that this procedure for conducting hearings will enable the Committee on Agriculture and Forestry to gage the true sentiments of the American farmer and the American consumer. By attempting to hear from as many practicing farmers as possible, the committee will make every effort to find out what the farmers want before moving forward on major farm legislation.

SURFACE MINING HEARINGS SET FOR MARCH 13, 14, AND 15, 1973

Mr. JACKSON. Mr. President, I would like to advise the Members of the Senate and other interested persons that the Subcommittee on Minerals, Materials, and Fuels has scheduled an open hearing on S. 425, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, for March 13, 14, and 15, 1973.

The hearing will be held in the committee room, 3110 Dirksen Senate Office Building, and will begin each day at 10 a.m. Persons wishing to testify or submit statements for the record should so advise the staff of the Interior Committee.

NOTICE OF HEARING ON BILL TO AUTHORIZE APPROPRIATIONS FOR THE INDIAN CLAIMS COMMISSION

Mr. JACKSON. Mr. President, I wish to announce to the Members of the Senate and other interested persons that the Subcommittee on Indian Affairs has scheduled an open hearing for February 16 on S. 721, a bill to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes.

The hearing will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building, and anyone wishing to testify or submit a statement should so advise the staff of the Interior Committee.

HEARINGS ON INTERIOR NOMINATIONS ANNOUNCED FOR FEBRUARY 20

Mr. JACKSON. Mr. President, I wish to announce for the information of the Members of the Senate and other interested persons that the Committee on Interior and Insular Affairs has scheduled open hearings for February 20 on the nominations by President Nixon of the Honorable John Kyl, of Iowa, to be Assistant Secretary of the Interior for Congressional and Public Affairs, and of Mr. Jack O. Horton, of Wyoming, to be Assistant Secretary of the Interior for Land and Water Resources.

The hearings will be held in room 3110 of the Dirksen Senate Office Building and will begin at 10 a.m.

Persons wishing to testify or submit statements for the hearing record should so advise the staff of the Interior Committee.

Mr. President, I ask unanimous consent that biographical sketches on both Mr. Kyl and Mr. Horton be printed in the RECORD at this point in my remarks.

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

BIOGRAPHICAL SKETCHES

JACK O. HORTON

The President today announced his intention to nominate Jack O. Horton, of Saddlestring, Wyoming, to be Assistant Secretary of the Interior for Land and Water Resources. He will succeed Harrison Loesch, who served as Assistant Secretary of the Interior from April 1969 to January 1973.

Mr. Horton has served since March 1972 as Co-Chairman of the Joint Federal-State Land Planning Commission for Alaska.

From 1969 to 1972 he held several positions in the Department of the Interior, including Deputy Under Secretary from June 1971 to March 1972. He was also a consultant in the Office of the Under Secretary from April 1969 to June 1970, Assistant to the Secretary for International Affairs from June 1970 to March 1971, and Deputy Assistant Secretary for Programs from March to June 1971.

Mr. Horton was born on January 28, 1938, in Sheridan, Wyoming. He received his A.B. degree in geology from Princeton University in 1960 and received his M.A. degree in politics and economics from Oxford University after studying there during 1960–1961 and 1965–1966 as a Rhodes Scholar. From 1961 to 1965 he served as an officer in the U.S. Navy. While at Princeton he was All-American in lacrosse in his junior and senior years and at Oxford he was a member of the All South of England Lacrosse Team.

Following his graduation from Oxford, Mr. Horton was engaged in ranch work in Saddlestring, Wyoming, and served as Executive Director of the Wyoming Republican Party.

Mr. Horton is married to the former Grace Espy Ford of Savannah, Georgia. They reside in Washington, D.C.

JOHN KYL

The President today announced his intention to nominate John Kyl of Bloomfield, Iowa, to be Assistant Secretary of the Interior for Congressional and Public Affairs. He will succeed James R. Smith, who has been an Assistant Secretary of the Interior since March 21, 1969.

Mr. Kyl served as a Congressman from Iowa's Fourth Congressional District from December 1959 to January 1965 and from January 1967 to January 1973. He was first elected to Congress in 1959 to fill a vacancy and was re-elected to the 87th and 88th Congresses. He returned to the House of Representatives in 1967 and was re-elected to the 91st and 92nd Congresses.

During his service in the 92nd Congress, Mr. Kyl was a member of the House Committees on Agriculture, and on Interior and Insular Affairs. He was Ranking Minority Member of the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs.

Mr. Kyl was born on May 9, 1919, in Wisner, Nebraska. He received his A.B. degree from Nebraska State Teachers College at Wayne, Nebraska, in 1940, and his M.A. degree in school administration from the University of Nebraska in 1947. From 1940 to 1949, he was a teacher and school administrator at high schools in Nebraska and also taught at Nebraska State Teachers College.

From 1949 to 1953 he was Manager of the Wayne, Nebraska, Chamber of Commerce, and from 1953 until his election to Congress in 1959, he was a merchant in Bloomfield, Iowa. From 1957 to 1959, he was also a television newscaster, then Director of News and Special Events for station KTVO in Ottumwa, Iowa.

Mr. Kyl is married to the former Arlene Griffith. They have three children.

ADDITIONAL STATEMENTS

TOURISM IN THE UNITED STATES

Mr. SPARKMAN. Mr. President, Parade magazine for February 4, 1973, contains an article dealing with tourism in the United States by those visiting us from other countries. The article is entitled "Welcome, Stranger, to the U.S.A."

The article was accompanied with some most attractive pictures of pretty girls in airports and at other places where tourists would enter our country, helping the tourists with information, and welcoming them to the United States.

The whole article gives a good idea of what can happen if we stimulate tourist travel in the United States.

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:

[From Parade magazine, Feb. 4, 1973]

WELCOME, STRANGER, TO THE U.S.A.

(By Larry Jackson)

How would you like to begin a visit in a foreign country being greeted by pretty girls? It happens daily when tourists arrive at New York City's John F. Kennedy International Airport and airports in Seattle, Philadelphia, and San Juan, Puerto Rico.

A total of 125 girls are now meeting planes in these four cities, and similar plans are underway for Boston, Miami, San Francisco, Guam and the Virgin Islands.

Who are the girls, and why are they being so friendly?

At Kennedy they are called the "Golden Girls" because of their distinctive gold-colored blazers. PARADE recently observed them as they answered questions and assisted tourists through customs and immigration formalities. They are part of an energetic federal program to encourage tourism by showing America is a friendly place.

"You'd be surprised how many visitors arrive confused and need someone to talk to," says Yolanda Carrion, a "Golden Girl" for more than a year "We try to set an example of American friendliness."

The girls are kept busy interpreting for many of the 4.5 million foreign travelers who

pass through Kennedy yearly. The girls, most of them language students at New York City area colleges, speak a total of 10 foreign languages: Spanish, French, Polish, German, Italian, Russian, Chinese, Greek, Hebrew and Yiddish.

"Much of our time may be spent interpreting and guiding," says Christina Blazewicz, a student at St. John's College, "but actually our most important duty is to be patient."

Patience is especially needed when communicating with the small number of travelers who speak an unfamiliar tongue, says Mrs. Fern Giambatista, supervisor of the girls. "We must then communicate in sign language and smile. We've found that smiles are understood in all languages."

JOINT SPONSORSHIP

The 35 "Golden Girls" at Kennedy are under the joint sponsorship of the United States Travel Service and the Port of New York and New Jersey Authority. They're on duty daily from 2 p.m. to 10 p.m., when the bulk of the international flights arrive. Each girl receives about $41 for a 15-year week; they work full time during vacations.

"We have to counteract the bad publicity the United States gets abroad because of crime and other problems," says Ronald Danielian, USTS research and analysis director. "Foreign people are afraid of crime, costs and language barriers. They are afraid of being mugged in broad daylight, worry about American prices and being unable to communicate enough to get by."

Danielian says these fears are exaggerated. "Crime in many American cities is no worse than abroad. Prices, with special travel discounts for foreigners, are comparable to most major countries and people here speak more languages than foreigners realize."

EIGHT OFFICES ABROAD

Nevertheless, the USTS will spend much of its $9 million budget this fiscal year—less than countries like Ireland, Israel and Spain spend—on pamphlets telling foreigners what to expect and how to fend for themselves when they arrive here. The brochures, distributed through eight USTS offices abroad, explain everything from U.S. traffic laws to the price of dry cleaning.

The agency's job encompasses more, of course, than supplying foreign travel agents with brochures touting the United States. Programs available through the USTS include:

Travel-phone USA—a nationwide toll-free telephone number where a foreign tourist can arrange for interpreter service or get advice on how to deal with problems likely to be encountered in the United States.

Travel discounts—foreign tourists are eligible for travel discounts of up to 50 percent on U.S. airlines and 25 percent on trains. Major intercity bus lines also have special discounts for foreigners.

Matching grants—tax-exempt, non-profit public and private agencies, as well as states and local governments, are eligible for a total of $700,000 in federal grants to advertise local tourist attractions abroad.

The USTS hopes the inducements will stimulate foreign tourism and help reduce the U.S. balance of payments deficit, which reached almost $30 billion in 1971. Last year American tourists spent about $3 billion more abroad than was spent here by foreign visitors.

"However, an increase in the number of foreign tourists may have narrowed the travel gap," says Assistant Secretary of Commerce C. Langhorne Washburn, USTS director. "The deficit growth was only 7 percent last year, compared to 17 percent two years ago.

"Of course," says Washburn, "we wouldn't have this tremendous travel deficit if we weren't the most affluent nation in the world."

Still he hopes someday to eliminate the deficit. The USTS plans to absorb (and greatly expand) all domestic travel promotion from the U.S. Park Service. Next, reduced air and rail fares, similar to those offered to foreigners, would be set up for Americans.

SPEND MONEY AT HOME

"If we can encourage Americans to spend their money on domestic trips, we can keep money here in the United States," Washburn says. "If we can increase foreign tourism here at the same time, we can wipe out, or at least slow down, the deficit."

EXTENSION TO SMALL BUSINESSES OF RIGHT TO BRING CIVIL SUITS AGAINST PREDATORY PRICE CUTTERS

Mr. GRIFFIN. Mr. President, at the request of the distinguished Senator from Colorado (Mr. DOMINICK), I ask unanimous consent to have printed in the RECORD a statement by him relative to the extension to small businesses of the right to bring civil suits against predatory price cutters.

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

STATEMENT BY SENATOR DOMINICK

As a member of the Select Committee on Small Business, I am particularly pleased to join as a cosponsor of S. 780, which would extend to small businesses the right to bring civil suits against predatory price cutters. Firms that sell goods below cost for the express purpose of eliminating competitors are presently subject to criminal prosecution, but this is small consolation to the businessmen who have been ruined by unscrupulous price cutting. The bill would assist in correcting the present situation.

Small businesses would be able to collect treble damages whenever they can prove that the purpose of another firm's below-cost selling is to destroy competition or a competitor. This coincides with existing criminal law whereby the mere fact that sales have been made below cost does not suffice to establish criminal liability, and predatory intent must be proved.

The bill would also benefit the consumer by allowing more small businesses to remain open, thereby increasing the consumers' sources of supply and in some cases creating lower prices through the stimulus of honest competition.

I hope that Senators will join in supporting the bill so that we can add new force and meaning to one of the Nation's important anti-monopoly laws.

A WELL-DESERVED HONOR

Mr. ROBERT C. BYRD. Mr. President, I call attention to a well-deserved honor that has been conferred on Capt. William M. Taylor, instructor at the Special Forces School at Fort Bragg, N.C.

Captain Taylor was chosen as outstanding instructor at the school for the first quarter of fiscal year 1973. He is the son of a distinguished West Virginian, Mr. Hubert T. Taylor.

I ask unanimous consent that the memorandum transmitting notice of the award to Captain Taylor be printed in the RECORD.

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

DEPARTMENT OF THE ARMY,
Fort Bragg, N.C., October 11, 1972.

Subject: Special Forces School Outstanding Instructor Award.

Thru: Director, Special Forces Advanced Training Department, Special Forces School, USAIMA, Fort Bragg, North Carolina 28307.

To: Captain William L. Taylor, [redacted] Special Forces Advanced Training Department, Special Forces School, USAIMA, Fort Bragg, North Carolina 28307.

1. I am extremely pleased to inform you that you have been selected to receive the Special Forces School Outstanding Instructor Award for the First Quarter, FY 73.

2. Selection for this award, which is given each fiscal quarter to only four of the approximately 400 members of the entire Special Forces School staff and faculty, is based on demonstrated professional skill and knowledge of subject material, military bearing and appearance, platform performance, development and improvement of vault files, instructor evaluation reports, and student critique sheets. Moreover, your nomination was made by your superiors who observe you and your work on a daily basis.

3. In winning this award, you have rendered an outstanding performance of duty and have demonstrated the highest qualities of a professional soldier and military instructor. Aside from your teaching proficiency, your selection acknowledges also the long and painstaking preparation you have devoted to your classes, the genuine interest and patience you have shown your students, and your high qualities of leadership. I assure you that your contribution to the Army, and particularly to Special Forces, has been a valuable and ever widening one. The example you have set has been most noteworthy.

4. On behalf of the Commandant and the Assistant Commandant, United States Army Institute for Military Assistance, and all the members of the Special Forces School, I extend sincere appreciation for your efforts, congratulations on your achievement, and best wishes for continued personal success.

5. A copy of this correspondence will be placed in your official 201 file.

WILLIAM M. MILEY, Jr.,
Colonel, Infantry,
Director.

TRUTH IN SAVINGS

Mr. HARTKE. Mr. President, almost 2 years ago I introduced the Truth-in-Savings Act (S. 1848) which is designed to provide savings depositors with basic information about earnings rates and methods of earnings computation.

The details of the bill may be complex, the principle behind it is quite simple. What the Hartke proposal says is that a person who places his savings in a savings institution should know beforehand just how that institution is going to calculate earnings—or interest. There are more than 100 different ways that earnings can be calculated, and a potential depositor deserves to know what method will be applied to his savings account.

The Hartke bill further says that existing depositors should be provided with information which makes it possible for them to check the savings institution's earnings calculations. Thus, if a depositor gets his passbook back and it says that his account has been credited with $56.20 in interest, he should be provided with a means to justify that calculation. Each of us with a checking account reconciles our balance periodically. Occasionally we find that we have made a

mistake in our own calculations; but on some occasions, banks—with all of their automated equipment—do make mistakes. The Hartke truth-in-savings proposal makes it possible for a consumer-depositor to know when his bank has made a mistake.

Mr. President, many savings institutions are making sincere efforts to provide consumers with the type of information the Hartke proposal would require. I am especially proud that one such institution is the Salem Bank & Trust Co., with offices in Goshen, New Paris, and Millersburg, Ind. They have prepared a booklet entitled "Guide to Truth-in-Savings," which provides potential depositors with a wealth of valuable information about savings accounts.

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

There being no objection, the text was ordred to be printed in the RECORD, as follows:

GUIDE TO TRUTH-IN-SAVINGS

(Effective December 1, 1972)

All Banks do not compute interest on their savings and time deposits the same way. The method of computing interest on savings accounts is as important as the rate of interest advertised for an account. Here are some hints on what to look for in a savings program.

Always check to see whether interest is computed on: The Daily Balance; The Monthly Minimum Balance; The Quarterly Minimum Balance; or the semi-annual Minimum Balance. In general, the more often your interest is computed the more you will earn.

Compounding of interest is when interest is computed upon principal and previously computed interest. This means you are earning interest on interest.

The rate of yield on a savings account or certificate of deposit is the actual amount of interest you earn on the account, stated as a percentage of the average balance of the account. If you allow your interest to be added to the principal rather than withdrawing it, your rate of yield will be higher.

All rates of interest and yield must be expressed as an annual rate.

Please keep this information in mind as you read the following description of Salem Bank's savings plans. We think you will agree that we have a very attractive savings program.

1. Regular savings accounts are available in either the passbook or quarterly statement types. Deposits and withdrawals are permitted at any time.

The annual interest rate of 4½ per cent is computed each month on any minimum monthly balance of $5 or more.

Deposits made by the 10th of any month are considered to be made on the 1st for interest purposes.

Interest is computed monthly and credited to your account on the last business day of February, May, August, and November. The interest is available to you on the next business day. If you have the statement type account, the interest will be included on your statement. If your account is the passbook type, you should have your interest posted by bringing the passbook to a teller at the main office or any of our branches.

A balance of at least $5 must be maintained in the account on the last day of February, May, August, and November in order to receive interest on the account.

2. Certificates of deposit are issued with 3, 12, or 24 month maturities with the minimum amount of $1,000.

Interest is compounded daily on all certificates issued or renewed after August 11, 1972 and these certificates are automatically renewed. (Interest on 12 and 24 month certificates issued before August 11, 1972 is paid or added to principal quarterly and the certificates must be individually renewed as they mature.)

Certificates may be increased or decreased at maturity and for 10 days thereafter.

Interest is paid every 3 months, either by check or by a credit to the account. A written notice of credit is mailed to you if we add the interest to the principal of your account.

Three month certificates earn 5.0 per cent interest or 5.125 per cent annual yield when you allow the quarterly interest to be added to the principal.

Twelve month certificates earn 5.5 per cent interest or 5.653 per cent annual yield when you allow the quarterly interest to be added to the principal. (on certificates issued after 8–11–72)

Twenty-four month certificates earn 5.75 per cent interest or 5.915 per cent annual yield when you allow the quarterly interest to be added to the principal (on certificates issued after 8–11–72).

Certificates of Deposit may not be cashed before maturity except in case of an emergency as defined by State and Federal banking regulations.

Rates of interest on certificates of deposit for $100,000 or more are negotiated individually.

3. Investment savings is a time deposit, open account with a 3 month maturity. This type of savings account may be opened in any of 3 quarterly cycles so that it matures in the months you choose. Or, you may open an account in each of the 3 cycles and receive an interest check every month.

Deposits earn interest from the date of deposit and may be made at any time and in any amount.

Annual interest of 5 per cent is computed and compounded daily and paid quarterly when your statement is issued. If the interest is allowed to compound for a full year, the annual yield is 5.125 per cent.

Withdrawals are permitted for a 10 day period after your statement date. The amount you may withdraw is stated on your quarterly statement and includes all interest due and funds which have been on deposit for at least 1 full cycle.

The minimum opening balance is $500. No interest is accrued or paid on your account when the balance is below $500.

4. Christmas and vacation clubs are savings accounts that have a coupon book for weekly deposits.

Clubs may be opened for weekly deposits of 25c, 50c, $1, $2, $3, $5, $10, or $20.

Interest is computed daily at the annual rate of 4½ per cent and paid when the account matures.

Vacation Club checks are mailed on or about May 1 and Christmas Club checks are mailed on or about November 1. The checks include the balance of the account plus all interest which has been earned on the account.

5. Homeowners savings is an account designed specifically for Homeowners to save for property taxes (although it also has many other uses.)

Accounts are opened in amounts of $3, $5, $7, $10, $15, and $20. You decide how much you need to save for your property tax, then make regular weekly, monthly or semi-monthly deposits to the account on a predetermined schedule.

Interest is computed daily at the annual rate of 4½ per cent.

As of the 25th days of April and October, a check is issued and mailed to you for the balance of the account and the interest that has been earned. (Any other withdrawals will be made only in the case of an emergency at the discretion of the bank, subject to rules of State and Federal regulatory agencies.)

DON'T BE SWINDLED!

Your suspicions should be aroused whenever a stranger often posing as an FBI Agent or bank examiner asks you to withdraw your savings. If this happens you can play it safe by checking either with the police or an officer of the bank. Don't take a chance.

SETON HALL WINS NATIONAL CLUB FOOTBALL CHAMPIONSHIP

Mr. WILLIAMS. Mr. President, during the football season, Seton Hall University of South Orange, N.J., won the National Club Football Championship Bowl and was ranked No. 1 in the Nation ahead of the 86 college football teams that compete on the club level.

Obviously, this was a most significant achievement which clearly reflects the outstanding ability, dedication and hard work of the Seton Hall team.

It also is an achievement that honors the university itself and indeed our whole State. The national championship follows a tradition at Seton Hall which over the years has turned out outstanding teams in all sports. In addition to the national championship, the university received an additional honor when the club football coach, Edward Manigan, was voted New Jersey Collegiate Coach of the Year.

When one realizes the number of colleges and universities in New Jersey and the number of teams they field in various sports, it becomes apparent that this is truly a great honor.

I am pleased to have this opportunity to applaud the team and its coach and think that these achievements deserve being recorded in the CONGRESSIONAL RECORD.

RULES OF SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

Mr. McGOVERN. Mr. President, section 133B of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, requires the rules of each committee to be published in the CONGRESSIONAL RECORD not later than March 1 of each year.

In accordance with this section, I ask unanimous consent that the rules of the Select Committee on Nutrition and Human Needs be printed in the RECORD.

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

RULES AND PROCEDURES OF THE SENATE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

(Adopted September 6, 1968)
(Amended November 5, 1969)

1. COMMITTEE MEETINGS

(a) The Chairman of the Committee, or if the Chairman is not present, a member designated by the Chairman of the Committee, shall preside at all meetings.

(b) The regular meeting date of the Committee shall be the second Friday of each month at 10 A.M. The Committee shall convene at the call of the Chairman at such times as are necessary to transact Committee business.

2. EXECUTIVE SESSIONS

(a) For the purpose of conducting an Executive session, seven members * of the Committee actually present shall constitute a quorum. No measure or recommendation shall be reported from the Committee unless a quorum of the Committee is actually present at the time such action is taken.

(b) Proxies will be permitted in voting upon the business of the Committee by members who are unable to be present; these proxies to be valid must be signed and assign the right to vote to one of the members who will be present.

(c) There shall be kept a complete record of all Committee action. Such records shall contain the vote cast by each member of the Committee on any question which a "yea and nay" vote is demanded.

The Clerk of the Committee, or his assistant, shall act as recording secretary of all proceedings before the Committee.

(d) No person other than members of the Committee and members of the staff of the Committee, shall be permitted to attend the Executive sessions of the Committee, except by special dispensation of the Committee or the Chairman thereof.

3. HEARINGS

(a) No hearing shall be initiated unless the Committee or the Chairman of the Committee has authorized such hearing.

(b) All hearings shall be open to the public unless an Executive hearing is specifically authorized by the Committee.

(c) Any witness summoned to a public or Executive hearing may be accompanied by counsel of his own choosing who shall be permitted while the witness is testifying to advise him of his legal rights.

(d) No confidential testimony taken or confidential material presented in an executive hearing of the Committee or any report of the proceedings of such an executive hearing shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee.

(e) Any member of the Committee shall be empowered to administer the oath to any witness testifying as to fact.

(f) The Committee shall so far as practicable, require all witnesses heard before it, to file written statements of their proposed testimony at least seventy-two hours before a hearing and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee.

4. SUBCOMMITTEES

The above rules shall apply to all duly constituted Subcommittees of the Committee.

SENATOR HELMS REMAINS A CONSERVATIVE

Mr. TOWER. Mr. President, it is most encouraging to see the new Senator from North Carolina (Mr. HELMS) responsibly facing up to the issues currently confronting the Congress, and, in so doing, already receiving due recognition within his State and attracting national attention.

I ask unanimous consent to have printed in the RECORD an article entitled "Helms Remains Conservative," written by Charles Osolin, and published in the Winston-Salem Journal and Sentinel of February 4, 1973.

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

HELMS REMAINS CONSERVATIVE

(By Charles Osolin)

WASHINGTON.—Sen. Jesse Helms, R-N.C., plans to oppose attempts by Congress to outlaw the presidential impoundment of appropriated funds or to restore funds for rural programs which have been cut back or canceled by the Nixon administration.

Helms will also fight any attempt to return U.S. fighting men to a "no-win" war in Vietnam once they are withdrawn, to reduce the level of U.S. defense spending or to provide economic assistance for rebuilding North Vietnam.

He has reservations about the need for a congressional investigation of the Watergate bugging incident, and he believes that most of the complaints about the refusal of administration officials to testify before Congress are "just political rhetoric."

CONSERVATIVE VIEWPOINT

These positions on key issues of the 93rd Congress, all generally consistent with the conservative viewpoint Helms has taken for the past 12 years as a Raleigh radio-television editorialist, were set fourth in an interview Friday at Helms' Senate office.

For the most part, they place Helms in direct conflict with the leadership of the Senate and with North Carolina's Democratic senior senator, Sam J. Ervin Jr. of Morganton. Helms had campaigned for the Senate last fall partly on the theme that if elected, he would "line up" with Ervin on the "major issues" and said his opponent, former Rep. Nick Galifianakis of Durham, would "cancel out" Ervin's vote.

CAMPAIGN PLEDGE

Helms, who became the first Republican to represent North Carolina in the Senate since 1903, when he was sworn in last month, made it clear that he intends to fulfill his campaign pledge of support for Nixon policies—especially when those policies involve reducing federal spending, taming the "liberal bias" of the news media and maintaining a strong national defense.

Helms showed last week, however, that he will be willing to buck Nixon if his principles demand it—on Wednesday he voted against confirming Nixon's nominee for secretary of labor, Peter J. Brennan. Helms said he does not believe representatives of a particular viewpoint—in Brennan's case, that or organized labor—should be placed in positions where they must mediate their own position with conflicting points of view.

"GOOD-FAITH EFFORT"

"I don't wake up every morning praising everything Richard Nixon's done," Helms said, "but I think that he's making a good-faith effort"—as in his attempts to cut the budget—"and I'm going to help him all I can."

Helms is unsympathetic with the outcry on Capitol Hill this year over what many congressmen and senators believe is an unconstitutional encroachment by the executive branch on the powers and prerogatives of Congress.

Ervin, on the other hand, is leading the fight in the Senate to "restore the balance of power envisioned by the Constitution."

Last week Ervin began his effort to recapture the "power of the purse" for Congress with a series of hearings on the Nixon administration's practice of impounding, or refusing to spend, funds appropriated by Congress for federal programs. He has introduced legislation which would require congressional approval of any impoundment lasting longer than 60 days.

Helms said he will not support the Ervin bill "unless he ties into that a reasonable discipline of the Congress itself. If he will address himself to two prongs—congressional responsibility and the impoundment—then I could very well go along with him."

"If senators and congressmen don't like the President's proposals for cutting the budget, let them cut the budget themselves," Helms said. "I'd rather for us to do it—but no, they sit up there and howl about what he's doing. I'm not saying that he's right in everything, but he's right in trying to cut the budget."

Helms said Ervin should either incorporate provisions in his anti-impoundment legislation which would force Congress to "exercize some responsibility" in holding down spending, or launch a separate effort along the same lines.

RESTORE PROGRAMS

Ervin has also cosponsored legislation introduced by Sen. Hubert H. Humphrey, D-Minn., which would restore a program of low-interest loans for rural electric cooperatives and would direct the administration to spend the funds appropriated for the REA loan program by Congress. The Agriculture Department canceled the program of direct loans at a two per cent interest rate on Dec. 29, saying it would be replaced by a system of government-insured loans at five per cent interest.

Asked if he would vote for the Humphrey bill to restore the funds, Helms said he is "unalterably opposed" to the low-interest loan program.

"I think it's unfair to the taxpayers who pay their own electric light bill to a private company that pays taxes, and then these people get this flat two per cent," he said.

The co-ops have launched a major lobbying effort to try to have the loans restored, and Helms said he has been urged by "30 or 40" officials of electric co-ops in North Carolina to "support the two per cent."

He said he has written back asking how much more individual customers would have to pay for electricity under the five per cent loan program, "and you know I never got an answer to that. The truth of the matter is that they can afford to pay the five per cent.

"I'm not opposed to the REA—I'm for rural electrification—but I'm against giving away the taxpayers' money unnecessarily."

Helms said "a lot of co-ops" are taking the two per cent loan money and "turning around and reinvesting it."

However, that charge was disputed by J. C. Brown, general manager of the North Carolina Electric Membership Association.

"IT'S ILLEGAL"

"It's illegal to reinvest money obtained from those loans," Brown said. "There's no way to invest it without going to jail." He said co-ops will sometimes invest their cash reserves, which must be kept lower than most private firms would keep them, in short-term securities—but the federal loans can be drawn only to pay for capital construction which has already been completed.

Brown said the restoration of the two per cent interest rate was not as crucial to the co-ops as getting the administration to provide the replacement program it promised.

"Right now, there's no program at all," he said. Brown said the 22 electric co-ops in North Carolina serve about 1.5 million people.

GOOD, BAD

Another farm program curtailed in the administration's drive to hold federal spending this year was the popular Rural Environmental Assistance Program, which provided cost-sharing grants to farmers to

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*Amendment approved by the Committee on November 5, 1969, provided that seven members actually present shall constitute a quorum. The amendment was approved at the time the Committee requested an increase in its total membership to 14 by the addition of one minority member selected from the Senate at large. The former Rule 2(a) provided that a majority of the Committee actually present constitutes a quorum.

practice soil and water conservation. Helms said the program, for which Congress appropriated $225 million last year, has "some good portions and some bad portions."

"Every administration dating back, I think, to Truman has tried to get rid of this program," he said, "but there are some good features in it." And Helms said he might consider voting to restore the program.

"If we could boil it down and get the things that are really beneficial to conservation." But he said there is "no way" he will support efforts to restore funds for the entire program.

Turning to foreign policy, Helms expressed skepticism that the cease-fire agreement permitting American withdrawal from Vietnam would lead to a lasting peace in Southeast Asia.

"Pen on parchment doesn't mean a thing," he said. "What's required is the good faith of all three sides, and I'm just skeptical about any good faith of the Communists. I've not seen any yet, anywhere else in the world."

SUPPORT NEEDED

Helms said South Vietnam is stronger and better able to resist Communist aggression than it was when the United States first undertook its support, but that continued American material support is needed so the South Vietnamese can defend themselves if the fighting resumes.

Asked if this included returning American troops to Vietnam, Helms said, "I don't want to send any more troops back—and I certainly wouldn't want to send them back to fight a no-win war. Now, if we gut up to what this thing is all about, and if the circumstances demand it, then we'll take a look at that."

"SAME DESIGNS"

"As I've said two or three times this week, I don't think communism has mellowed. I think they have the same designs that they've always had, and I just don't want us to get sucked into a vacuum of intellectual euphoria.

"I don't mean we ought to go around the world picking fights, but I think we ought to know what communism is and what the goals are and realize that our own self-interest is involved. . . ."

"We had better keep our guard up—and we had better not assume that all of a sudden these folks who have slaughtered millions of people—ruthlessly, brutally—are good boys. For me, at least, it's going to take a longer period of persuasion."

Helms briefly touched on these other topics during the interview:

U.S. aid to North Vietnam, as required in the cease-fire treaty: "I wasn't sitting at Kissinger's elbow when he made that agreement—I'm not a party to it. As of now, knowing no more about it than I do, I can't see that I could justify sending taxpayers' money to North Vietnam."

Court-ordered busing of school children: Helms said he has "several good constitutional lawyers" in Washington and North Carolina working on an innovative approach to the busing problem. He said he is not yet ready to discuss the legislation he will propose, but believes "it would be very helpful in the busing situation if we can get it enacted."

The administration's decision to "terminate" the Communist-hunting Subversive Activities Control Board when its current funds run out in June, largely because of Ervin's legislative assault on the board. "I'm sorry that the Subversive Activities Control Board was abolished, but I haven't given any thought to whether some similar agency ought to be created or not."

The proposed Senate investigation by Ervin of the Watergate incident and related charges of Republican espionage and sabotage during last year's Democratic primary campaigns: "I'd have to see what precisely is proposed. I don't countenance what is alleged to have happened, but I think there's a whole lot of political indignation in this thing, too. Mainly I would hope that it could be resolved in the courts, and these people who have violated the law be punished."

Political "dirty tricks" in general: "There's a certain amount of political espionage in every campaign. In our own campaign—and I won't elaborate on this—but we had to buy a paper-shredder. And it wasn't an ill-founded purchase, I'll tell you that. I was amused by what was considered to be important in our throw-away stuff."

Renewed calls for gun control legislation in the wake of the street shooting of Sen. John Stennis, D-Miss.: "I think a gun control law would be useless. It would do more harm than good. Now these 'Saturday night specials' are another thing—they don't have anybody who will defend them—but other gun control legislation would just be a waste of time."

Refusal of administration officials and Nixon aides to testify before Congress by invoking executive privilege, a practice roundly condemned by Ervin and others: "I'm not sure there's been any great abuse of executive privilege. It's been hollered ever since I've known anything about the Congress—they were shouting about it during Truman's administration. I think about 85 per cent of this is just political rhetoric.

"If the Congress wants to pull up its socks and tell the President, 'Mr. President, we'll work with you,' and stop all this carping, I believe you'd find the President of the United States himself coming up here."

BUDGET FOR THE AGED

Mr. MUSKIE. Mr. President, I again call the attention of Senators to a newspaper commentary analyzing the administration's budget proposals. Clayton Fritchey, in his column published yesterday in the Washington Post, observes that the President has once again failed to keep his pledge to aid the elderly. To quote from the column:

[The President last October] pledged that "relief for these Americans is going to be a first order of business in our next federal budget." Nevertheless, there isn't a whisper of this promise in the new budget. On the contrary, the administration intends to make the elderly pay an extra $1 billion a year for Medicare benefits they are now getting free. Fortunately for the aged, this has to have the approval of Congress.

I expect that Congress will demonstrate not only its fiscal responsibility, but also its social responsibility, by rejecting such distorted priorities in next year's budget.

I ask unanimous consent that Mr. Fritchey's column be printed in the RECORD.

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

THE BUDGET: A QUESTION OF PRIORITIES

(By Clayton Fritchey)

What is left out of federal budgets is often as significant as what is put in, and the Nixon budget for fiscal 1974 is no exception.

On Oct. 7 last year, just a few weeks before the presidential election, Mr. Nixon called the high property taxes paid by elderly retired Americans a "national disgrace." He pledged that "relief for these Americans is going to be a first order of business in our next federal budget." Nevertheless, there isn't a whisper of this promise in the new budget. On the contrary, the administration intends to make the elderly pay an extra $1 billion a year for Medicare benefits they are now getting free. Fortunately for the aged, this has to have the approval of Congress.

In his budget message last year, the President said, "Welfare reform, with training and work incentives, with a new fairness toward the working poor and a minimum income for every dependent family, is a good idea whose time has come . . . it is ripe for action now." Further delay in enactment, he said, would be both "unwise" and "cruel." Yet, there is no mention of it in the next budget. Instead Mr. Nixon in a special broadcast preceding the formal presentation of the 1974 budget, favored the public with a sermon against government spending, no doubt hoping this would divert attention from the record-breaking expenditures he is planning for next year and the year after.

Despite Mr. Nixon's warning about the spending habits of Congress, it is the President—not Congress—who is now asking for a budget of $269 billion, or $23 billion more than he requested last year. That's a leap of almost 10 per cent. In four years under Mr. Nixon, the budget has climbed from $195 billion to $269 billion—a record jump of $74 billion, or almost 40 per cent. And it might have been worse except for Congress. At the end of the 92nd Congress last fall, Sen. Mike Mansfield, the majority leader, reported that Congress had cut Mr. Nixon's new-appropriation budgets by $22.2 billion.

Under Mr. Nixon's stupendous spending, the national debt has climbed to almost half-a-trillion dollars, an increase of around $100 billion in four years. His deficits have exceeded anything in U.S. history except at the height of World War II. Yet in his radio broadcast on his latest budget, the President said with a straight face, "It is time to get big government off your back and out of your pocket."

Actually, there is little or no disagreement between the President and Congress over the $269 billion total for the new budget. The conflict centers on priorities. Although the United States is now out of the Vietnamese war, Mr. Nixon still wants to spend more on defense, while cutting or eliminating domestic programs for, among other things, health, education, poverty, pollution, day care and Medicare. Congress wants to do the reverse.

The President says his "search for waste" has led him "into every nook and cranny of the bureaucracy." But it hasn't led him to the Pentagon, where the documented waste runs into the billions.

The President warns Congress that if it gives social programs more than he has allowed it will have to take the responsibility for a tax increase. Not necessarily. Congress can offset these increases with military reductions. Also, it can provide more revenue by eliminating tax loopholes for vested interests.

After being subjected to four Nixon budgets, Congress has become a little skeptical of the President's arithmetic. It still remembers his first budget message, in which he said, "I have pledged to the American people that I would submit a balanced budget. The budget I send to you today fulfills that pledge." Instead, it ended with a deficit of $23.4 billion, and that was just a start.

PRESIDENT HARRY S TRUMAN—IN MEMORIAM

Mr. SPARKMAN. Mr. President, I join Senators in their tributes to the late President Harry S Truman.

Harry Truman was a Member of the U.S. Senate when I entered Congress. I recall quite well campaigning in Missouri for President Roosevelt and the national ticket in 1940 when the then

Senator Truman was running for reelection. Our trails crossed from time to time during that campaign. He was reelected to the Senate, and soon thereafter he was to show his independence of thought and his insistence upon the proper conduct of all those connected with our Government.

I remember, soon after we got into World War II, meeting Senator Truman in the corridors of the Capitol, when he told me that he had just introduced a resolution to provide for checking war contracts. I remember so well his typical statement, saying:

> We know that all of these dealings will be checked later. I think it would be better to check them as we go along and for us, who are friendly to the Administration, to check them ourselves in order to make certain that the war contracts are handled properly.

As chairman of the Truman Committee on War Contracts, he did a tremendous job for the benefit of the country and made a name for himself throughout the Nation. He became known as a man who insisted upon honesty in all dealings with the Government. It was in large measure this work of the Truman committee, under his leadership, that catapulted him into the nomination and election of Vice President.

He had very little time as Vice President to ready himself for the awesome job of President of the United States. However, he took hold while the war was still going on and made his decisions clear and firm. No President was ever called upon to make more far-reaching decisions than those that fell to his lot in the Presidency. He never hesitated; when he reached a determination as to what was right, he took that action. It was due to these decisions that the world was able to reshape itself after such a disastrous war.

Harry Truman was my friend. I respected him then and I respect his memory today as one of the most outstanding Presidents that this country has ever had.

REPORT OF THE NATIONAL WATER COMMISSION

Mr. McGOVERN. Mr. President, in September of 1968, President Johnson signed into law the National Water Commission Act which created a seven-member Commission charged with the responsibility of reviewing the Nation's water problems, programs, and policies. The Commission, by statute, is required to report simultaneously to the President and the Congress. By law, the Commission expires September 26, 1973, if it has not completed its work at an earlier date.

A review draft of the Commission's proposed report was distributed for public examination early in November of 1972. The public has had an opportunity to comment on the review draft at conferences held in Spokane, Wash.; Phoenix, Ariz.; and New Orleans, La. More reaction will be heard here in Washington this week.

I have given careful consideration to the review draft and the innumerable proposals for substantial policy changes that it contains. I am appalled. The Commission has established erroneous premises and on the basis of these premises arrived at faulty conclusions that will do the country great harm if they should be accepted by the President and adopted by the Congress.

Gov. Richard Kneip is traveling to Washington on Friday, February 9, to present South Dakota's views to the Commission. He will urge the Commission to modify the draft report. I join my State's Governor in urging the Commission to reconsider many of its principal recommendations.

We ask reconsideration in the interest of sound national policy. We are particularly concerned because the recommendations are certain to adversely affect our High Plains country and South Dakota.

Most of all, we deplore the Commission's unnecessary and ill-considered intrusion into general farm policy. Feeling secure in their corporation board rooms, the members of the Commission would liquidate the independent family-size farmer in favor of more corporation-type agriculture, apparently, looking to the day when a few giant corporations can monopolize and control food production, just as a handful of oil companies have already secured control over all forms of energy.

Energy company monopolists have managed and manipulated the country into a situation where we have fuel rationing and school closings across much of the country. Is the Commission ready to assure the country that food monopolists will do better? Do we really want corporation control of the Nation's food supply?

Instead of deprecating the family farmer and scorning the 160-acre limitation in reclamation law, the Commission would serve the country better if it were to recommend actions that would improve enforcement of the land laws, including legislative action if necessary. The Commission should address itself to these complicated problems as it concludes its deliberations and prepares a final report.

The Commission is chaired by C. F. Luce, chairman of the board of the Consolidated Edison Co. of New York. The chief executive officer of the country's largest power company does not need to be an expert on farm policy and social values. The review draft establishes that he is not.

The independent farmer and family-type agriculture receive short shrift from the Commission. The Nation's economically deprived and underdeveloped regions receive the same treatment.

The Commission goes completely astray by establishing the faulty hypothesis that economic development in one region adversely affects the rest of the country.

This is not true. The draft report does not contain a single shred of evidence to support the principal premise used to destroy Federal water resource development.

Do programs that encourage population dispersion adversely affect the congested regions of the country?

Does it cost less to provide the necessary public services for a new family if they locate in New York City than it does if they live in Spearfish, S. Dak.?

What is the relationship between population growth in a heavily populated region and profits for the individual businessmen and opportunities for the worker? A utility with a guaranteed monopoly market may benefit from growth and congestion. Is the same thing true of the businessman or worker who must exist in a competitive situation?

The National Water Commission could have provided a real service if it had examined these and similar questions in depth and reported their findings. If it had done so, and then concluded that economic gains in one region are offset by losses in other regions, we would have been impressed.

The Commission has not done so.

Members of Congress understand the contribution to economic growth associated with well-planned and properly executed projects for the development of land and water.

We have all watched growth follow water resource development and irrigated agriculture in the Pacific Northwest, in California and Arizona, and Nebraska and Idaho.

We believe that the total national interest and simple equity requires that other States, including South Dakota, should have the benefit of economic development stimulated by water resource development.

If the Commission's premise were true that economic development in one region really does adversely affect other regions, it would be grossly unfair to terminate federally financed water resource development without making certain that all States had been treated equitably.

South Dakota is one of 17 reclamation States. Less than three-tenths of 1 percent of the federally financed, irrigated agriculture is located in South Dakota. On the other hand, over 500,000 acres of our Missouri River bottom lands are being used to provide flood protection for downstream States on the Missouri and Mississippi Rivers.

The Oahe irrigation project was authorized by the Flood Control Act of 1944 and the first phase was reauthorized in 1968. The project would utilize Missouri River floodwaters stored in South Dakota for the protection of downstream States to irrigate rich farmlands along the James River in eastern South Dakota.

At long last, Congress appropriated $1,500,000 to be used to start construction on the Oahe unit in 1973. The administration has asked for $1,500,000 more in 1974. Although the amount is grossly inadequate, I am pleased to know that the administration recognizes the project's importance, even if it fails to understand the urgency of timely construction. I will urge the Congress to consider increased funding when the Public Works appropriation bill is considered by the Senate.

The Water Commission report for water resource development and inadequate funding place a heavy burden on those who support sound resource de-

velopment for the good of the whole country.

I trust that the National Water Commission will revise their review draft substantially as a result of the information supplied by the public officials and citizen groups participating in the conferences. I commend Governor Kneip for planning to present South Dakota's views to the Commission.

COLUMBIA, MD.: THE FIRST 5 YEARS

Mr. BEALL. Mr. President, in the summer of 1967, Columbia, Md., opened to the public as a new concept in living. It was to be a city where development would respect nature, where construction would set new standards of beauty, safety and convenience, and where emphasis would be given to the establishment of a complete and balanced community, providing a broad range of opportunities for housing, employment, and recreation. In short, Columbia was designed for people.

Now, 5 years later, Columbia can look back with pride on its accomplishments. It has achieved all its objectives and has been placed in the forefront of the efforts to make our cities livable again. The former Secretary of Housing and Urban Development, George Romney, best put the success of Columbia in its proper perspective when he said:

> The establishment of Columbia shows the entire Nation and the world an important, viable step toward solving the crushing problems of our wildly expanding and exploding cities.

The statistics speak for themselves in picturing Columbia's growth. At the end of 5 years, 21,000 people lived in Columbia. Even more significantly, more than 7,000 persons moved to Columbia last year, thus indicating the enormous expansion potential which the community possesses. By 1981, when Columbia is expected to be substantially completed, the city is planned to house 110,000 people in seven residential villages clustered around a central downtown.

It is important to note that, during Columbia's fast growth, the community has still set aside over 900 acres of land for open space, lakes, parks, and recreational areas. Stream valleys have been preserved and over 100,000 trees and shrubs have been planted throughout the town. Clearly, Columbia has sought to develop the proper environment for all of its citizens.

Commercially, Columbia now has 68 industries, two department stores, 138 other retail businesses, six banks, 24 home and apartment builders, nine restaurants, six office buildings, a hotel, library, noted music pavilion, a religion center for all faiths, and much more in the planning stages. Its job base has grown to almost 17,000 in the last 5 years, with an eventual goal of some 65,000 jobs. With such commercial development, Columbia has established itself as a major economic asset, not only for Howard County, but throughout the central Maryland region.

Now Columbia is 5 years old, and growing fast. On the horizon lie even greater opportunities for the city and its residents. I commend the people of Columbia and all those connected with this forward-looking concept on a job well done, and offer my best wishes for even more success.

AIR TRAFFIC SERVICE PERSONNEL

Mr. McGEE. Mr. President, on Monday the Senate adopted and I voted for the proposed Airport Development Acceleration Act. Today I call the Senate's attention to a related problem, one which I believe is more directly concerned with the safety of our expanding airport and airways system as it now exists.

Senators and other citizens have no doubt had their attention arrested by recent news reports which have gone so far as to warn of a possible "bloodpath in the skies" because of the failure or—more accurately—the inability of the Federal Aviation Administration to hire more air traffic controllers. Just last year Congress enacted as Public Law 92–297, the Air Traffic Controller Career Act, providing for early retirement and for second career training for those civilian controllers who must leave that demanding profession for operational or medical reasons.

In pursuing its normal oversight activities in connection with the implementation of this new law, the Post Office and Civil Service Committee had, even before the recent rash of news accounts apparently engendered by the union, the Professional Air Traffic Controllers Organization, found itself more deeply concerned with what is an obvious and worsening manpower problem in this vitally important field of air safety. As chairman, I had directed the staff to inquire indepth into this question. While I do not intend to indulge in scare language to impress on Senators the urgency of the situation, I do feel that the recent freeze in hiring, coupled with shortsighted budget management, has conspired to virtually insure that there will be a crunch imposed on the controller work force in the near future. In some places, it already is here. The FAA's responsible officials expect a real ballooning in the shortage within 12 to 18 months. This is so, despite the fact that the fiscal year 1974 budget recently given to us does provide for the hiring of about 1,500 additional controllers, as Members may also have read in the Sunday newspapers.

The problem is that it takes upward of 3 years to train a new air traffic controller to the point where he is fully qualified for his job provided that he makes the grade at all. Because there has been a freeze on hiring in effect—and in this case it has been a 2-year freeze—the pipeline is seriously devoid of replacement personnel in this stressful occupation whose high rate of attrition is well known to Senators.

The staff of the Post Office and Civil Service Committee has found, for instance, that absolutely no training of personnel for either of the important terminal or en route air traffic control positions is underway at the agency's extensive Academy in Oklahoma City. Some related training, chiefly of personnel to program and operate the Air Traffic Service's computer system, is underway. The training facilities intended to equip men to handle traffic at or near airports and to separate them from each other, as they speed across our skies sit virtually idle. When the staff visited the Academy in mid-January there was one air traffic control class in residence. They were foreigners, whose training was being paid for out of someone else's budget.

Much of the training in air traffic control work goes on within the employee's assigned facility, of course. Chicago's O'Hare International Airport usually is described as the busiest of those facilities, so the committee also took a look at O'Hare in January. Mr. President, where once five men assigned there to the training function, there are none today. They do not have the people. The FAA does not have the funds to pay necessary travel and per diem to send its student personnel to Oklahoma City.

This may be budgeting, but it is not, on the face of it, very adequate management.

Acting FAA Administrator G. S. Moore has supplied me with a report on the fiscal year 1973 authorized strength, onboard strength and the proportion of journeymen, or qualified controllers, or above at representative facilities around the country, including O'Hare, stating that the proportion of journeymen in the system as a whole is higher now than it has been been in recent years due to the steady advancement of the large influx of new hires in fiscal years 1970 and 1971. Senators may recall that those new positions were created in the wake of so-called job actions—slowdowns and sick-outs—by disgruntled controllers. In addition, that influx has improved the situation at en route traffic control centers more than at the major terminals such as O'Hare.

In the case of Chicago O'Hare, the authorized strength is given as 146, with 124 reported on board in January, 77 of them being journeymen and above. Without questioning the accuracy of those figures, I hold them misleading. What in fact our staff found at O'Hare, substantially upheld the contention of the union O'Hare has "less than 50 percent of the essential complement necessary to safely handle the highest volume of traffic in the world." I am not positive, on the basis of the staff's reporting, that it is all that unsafe. But the fact is that on January 18 of this year there were 53 fully qualified air traffic controllers actually available for duty at O'Hare, along with 36 more developmental controllers in various stages of productivity and efficiency. In all, that adds up to 89 men—with less than 60 percent of them fully qualified. The O'Hare Tower was authorized 109. In December, some O'Hare controllers had had their long-scheduled plans for Christmas leaves canceled or at least abbreviated. Some days there is not time for lunch breaks, and they send out for hot dogs. The difference between my staff's findings and those reported to us by the agency lies primarily in the FAA's inclusion of personnel I am not at present considering, that is, the agency's figures

include supervisory personnel whose duties are administrative in nature and others, notably data systems officers who program the computers on which the controllers rely.

A lack of funding has likewise hamstrung the agency's attempts to fully implement the second career legislation sought by the administration and enacted by Congress last year. It has limped along, placing about 50 disqualified controllers in training programs or schools as of mid-January. But it projects nearly 200 more eligible for the program through the end of the fiscal year and there is not that kind of money lying about.

It is possible, Mr. President, that a supervisor whose available manpower already is stretched too thin will be tempted to keep a man at the radar scope against his better judgment—especially if he can neither offer that man the retraining the law says he is entitled to or replace him when he leaves. I will not assert this is happening, just that it is possible. At present, we do know that, for lack of funding to establish a training pool to which to assign men in the second career program, some are sitting about their facilities pushing paper clips, as one man described their function. They are, of course, encumbering positions, drawing their pay, and only postponing the cost of retraining. This only insures the ultimate cost to the people will be higher.

That is the situation today. An examination of the fiscal year 1974 budget does, as I have already said, provide some room for optimism. The planned outlays for the Air Traffic Service may, indeed, be one of the few bright spots in that budget, which the agency's budget office tells us allows for $10.9 million for implementation of the second career training program enacted last year to ease the removal of operationally or medically disqualified controllers and help insure the young, effective work force the duties demand. Also, it provides $13.8 million for regular training activities, and for a total of 1,570 new employee positions, of which 1,225, we have been told, would be in the terminal and en route air traffic control categories. Just today, the agency informed a House committee that it actually contemplates hiring 2,700 trainees in fiscal year 1974—including 1,000 to take care of normal attrition, 700 to bring it up to fiscal year 1973 standards, plus a growth factor of 1,000 more.

That is fine. That is good. But fiscal year 1974 does not begin until July 1, and in the meantime the stresses of this demanding occupation will continue to take their toll of the available work force, widening the balloon between the manpower on hand and the numbers needed to insure the safe and expeditious movement of our aerial commerce.

I take heart in the FAA's assurance, given to me as well as to the press, that the safety of the system is not jeopardized. But, in view of the lag between the time a prospective employee is hired and the day he can take his place at the radarscope or the control tower microphone as a fully qualified controller, it is obvious the situation can only get worse before it gets better because of mistakes which are part of the past.

My remarks began with reference to our action, taken Monday, in passing the Airport Development Acceleration Act. That act, if it becomes law as we have said it should, would accelerate the development of new facilities to be commissioned and staffed. Now, under the impetus of the Airport and Airways Development Act, new towers are being commissioned, but on a limited basis, in that they operate for only 8 hours of the day instead of 24 as an example. Too, that law has made available to the controller improved electronic gear which may ease his job and make him more confident of the decisions he must constantly make. But it has not changed the fact that the job is still a task-oriented one; that the decisions are still manmade.

Fiscal year 1974 is 5 months away. The new expenditures and the new controllers the budget for that year would authorize will be highly welcome. But there is the considerable possibility that they will represent just a new episode in the saga of the air traffic system's manpower problems. The situation will recur so long as it is required that the agency ride the budgetary seesaw, conform to blanket hiring freezes, and incur the consequences of sudden personnel influxes, followed by long dry spells that dry up the pipeline. This, of course, is not a problem unique to the air traffic control field. It happens to be more critical in this area because the employees involved daily take the lives and safety of thousands into their hands.

How, in view of that grave responsibility, the nose of the Air Traffic Service can be held to the grindstone of debilitating restrictions on hiring, travel, and training of its personnel is beyond me. Yet, there has been no request for supplemental appropriations to enable an earlier start on narrowing the building manpower gap. The agency did seek authority to come before Congress with such a request last year, but, Mr. President, the request was short-stopped by the Office of Management and Budget.

Mr. President, I ask unanimous consent to have printed in the RECORD a press release issued January 22, 1973, by the Professional Air Traffic Controllers Organization and an article from the New York Times of January 28 which bear on this matter.

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

PROFESSIONAL AIR TRAFFIC CONTROLLERS ORGANIZATION,
Washington, D.C.

The 154 people killed in three recent major air crashes may be only the beginning of a bloodpath in the skies, unless the government improves its safety operations, according to John Leyden, President of the Professional Air Traffic Controllers Organization (PATCO). Leyden, who represents the 16,000 air traffic controllers of the United States, said "As things stand, similar or worse air accidents can occur. The principle reason is that the staffs of air control facilities—which carry the lives of every air passenger in their hands—have become dangerously, if not criminally, shorthanded.

"Once before," Leyden continued, "we were forced to alert the public to the unsafe conditions under which many aircraft operated in the air traffic control system. Recently, public attention has been alerted by three air accidents involving scheduled airliners: the crash of a United Airlines 737 at Midway Airport, Chicago killing 43 aboard and two on the ground; the collision at Chicago O'Hare Airport between a North Central Airlines DC-9 and a Delta Airlines 880, leaving 10 passengers dead; and the first crash of a superjet—a Lockheed L-1011 outside of Miami International for a death toll of 99.

"Three years ago President Nixon," Leyden continued, "responded to our pleas for help and per his request, Congress authorized the hiring of over 1,000 air traffic controllers to temporarily relieve the air traffic control system and make it safe.

"Now, however, the staffing of many of the major terminal facilities, which have the responsibility for protecting the lives of airline passengers, has reached a dangerous low. Chicago O'Hare, the nation's and the world's busiest airport, is just one example of the controller shortage. It has less than 50 percent of the essential compliment necessary to safely handle the highest volume of traffic in the world. Although the government has been alerted to these facts, they have to date been hidden from the public because of the recent stress on economy and the hiring freeze which has been imposed on all federal employees, which unfortunately includes controllers. It appears as though there is more stress on saving dollars than human lives."

Leyden also said, "the level of air safety was decreased by lack of implementation of a newly passed Bill which encouraged retirement of air traffic controllers. This legislation gave controllers the option to move on to other occupations when they no longer felt capable or competent to handle live aircraft. The increase in air traffic in the last six months only further points out the lack of sufficiently trained air traffic personnel to cope with further increases in the future. There has not been one new air traffic controller hired in the last seven months. The situation is so desperate," Leyden said, "that I have taken the issue to President Nixon himself in the hope that he might intervene now to prevent further air calamities which might result from these shortages. Our problem at present lies at the office of the Manpower and Budget. This group is playing Russian Roulette with the lives of air passengers in the interest of saving dollars. They must be put on notice now that the aviation industry is not willing to allow them to blindly pursue a deadly course which is the obvious result of their shortsighted tactics. The Federal Aviation Administration/Department of Transportation cannot hire new controllers nor can it openly criticize OMB for its shortsightedness. They must follow explicitly Manpower directives which cover all categories of federal employees. It is my fervent hope that a directive from the President will rectify this situation."

The following is the text of Leyden's Message to President Nixon, which was hand delivered to the White House on January 17, 1973:

"MY DEAR MR. PRESIDENT: Early in your Administration, you indicated a strong personal concern for the air traffic control system when you requested on November 6, 1969, that Congress immediately authorize the hiring of 1,000 additional air controllers. On May 16 of last year, the controllers of this nation again had the occasion to give you their wholehearted thanks for signing into law the Air Traffic Controller Career Act of 1972.

"It is now nine months since that law became effective, and it is my sad duty to inform you that virtually nothing has been done to implement its provisions.

"I know that the present austerity program

is in the best interests of this country, and that there is significant fat to trimmed off a large area of governmental expenses. But I am sure that your wishes have been misinterpreted in the area of controller hiring and controller retirement benefits.

"First of all, in the years following the hiring of 1,000 controllers in 1969, the workforce has become once again critically shorthanded. Secondly, there is a minimal number of air traffic controllers essential to the safety of air travel. Thirdly, the Controller Second Career Legislation is a vital component of maintaining a high level of air safety, giving controllers the option to move on into other occupations if they no longer feel they are fully competent to handle live traffic.

"It is true that your signing into law the Airport and Airways Users legislation in early 1970 gave one form of relief to a rapidly deteriorating air traffic system. The new hardware that has been introduced, as a result, has eased somewhat the strain on controllers who were attempting to keep an antiquated system running.

"However, the Users fund, under present regulations, cannot be applied to personnel needs, and to remedying controller shortages.

"In the past few months, it has become increasingly apparent to me that the Federal Aviation Administration and the Department of Transportation are unable to resolve the present crisis. They have not been able to implement the Controller Retirement Act, nor provide any measure of relief for the controller shortage.

"As a last resort, then, I must appeal to you for positive and decisive action, as you have done in the past, so that we may maintain the high standard of excellence and the unequalled safety record the air traffic control system of this country now enjoys."

[From the New York Times, Jan. 28, 1973]

AIR CONTROLLERS MAY ACT TO PROTECT HIRING FREEZE

(By Robert Lindsey)

Leaders of the nation's 19,500 air traffic controllers—who brought much of the country's air service to a halt with slowdowns in 1968, 1969, and 1970—are threatening to stage another one.

They contend that a seven-month freeze on the hiring of new controllers imposed by the White House Office of Management and Budget, coupled with a recent resurgence in airline traffic, is straining controller manpower and jeopardizing air safety.

"We're back to where we were in '68 and '69—they've shut off the pipeline for new controllers," John Leyden, president of the Professional Air Traffic Controllers Organization, said in an interview last week.

"We're already well below the authorized manning at a number of places, and some are dangersously shorthanded," he asserted.

Officials of the Federal Aviation Administration, which operates the nation's air traffic control system, denied emphatically that there had been any compromise with safety in the system or that there was currently an over-all shortage of controllers.

SOME SHORTAGES

However, they acknowledged that there was a shortage of qualified controllers at some facilities—at Chicago's O'Hare International Airport, for example—that had required the F.A.A. to reduce traffic "acceptance rates" at these points at times in the interest of safety.

Air traffic controllers serve much like traffic policemen on the ground. Using radar that can penetrate opaque skies, they direct pilots by radio and help avert possible collisions.

Some F.A.A. officials acknowledged that because it takes three years or more to train and qualify new controllers, a long term shortage of controllers could be developing.

Bertrand M. Harding, the agency's associate administrator for manpower, said in an interview that his office was making a study of manpower needs. He said that in 1970 and 1971 the agency hired more than 1,000 new controllers, but a higher-than-expected attrition rate and slower-than-expected phasing in of new controllers had caused shortages at some facilities.

"NO CRISIS NOW"

He said that if the study indicated there was a long-term manpower problem ahead, "we may have to pour on the steam" and expand hiring. "There is no crisis by any means," he added.

Mr. Leyden contended that there was already a "serious shortage" of manpower that was getting worse as the Nixon Administration's hiring freeze continued. He said that the safety committee of the controllers' organization would meet next month and consider "the next step we will take."

If a job action is agreed upon, he said, "it will be a legal method. We'll go by the book," applying the strictest interpretation of F.A.A. rules that, he said, could severely hamper the movement of planes.

He gave no indication of when a protest slowdown might be called. There is no way of knowing how many controllers might respond to a call for a slowdown. But observers close to the union noted that only a handful of controllers at key centers have managed to slow operations significantly in the past.

FLOW OF 15,000 FLIGHTS A DAY

The controllers work at airports and 20 radar control centers around the country where they monitor and direct the ebb and flow of 15,000 commercial flights daily. "Journeymen" controllers—those qualified to control airplanes on their own—initially earn $19,700 a year at major facilities and up to $25,613 after 18 years.

In 1968, a group of controllers in New York, saying that they were under terrible stress because radar equipment was faulty and facilities were severely short staffed, conferred with F. Lee Bailey, the Boston criminal lawyer who is also a pilot. He helped them form the Professional Air Traffic Controllers Organization, which staged a slowdown in July and August of that year that caused thousands of flight delays across the country.

Although they won much sympathy in Congress, little was done to resolve their grievances. They staged a brief slowdown in June, 1969. In March and April of 1970, more than 2,000 controllers simultaneously claimed "sickness" and, for nearly two weeks, they all but shutdown air service over much of the nation.

SPLIT IN GROUPS

The controllers, sharply divided by the tactic, returned to work under court orders. Mr. Bailey and several other officers were ousted and Mr. Leyden was elected President. Scores of controllers who had been leaders of the group were dismissed by the Federal agency.

Since then, the organization has kept a relatively low profile, regained the confidence of controllers disenchanted by the "sickout" and won an election to represent all controllers in collective bargaining with the F.A.A.

Congress, meanwhile, passed legislation providing for more than $1-billion modernization of the traffic control system. It also approved an unusual bill that allows air traffic controllers who are subject to stresses of controlling high density traffic to retire as early as 50 years old or shift to a new career in Government service. Both bills became law.

All but a handful of the discharged controllers have been re-hired, reflecting the Federal agency's attempts to heal the wounds of the dispute.

Although the modernization program is lagging behind schedule, the F.A.A. is replacing much of its obsolete radar gear and installing computerized equipment at control centers that, it says, should reduce stress.

THE ENERGY SHORTAGE

Mr. WILLIAMS. Mr. President, the energy shortage confronting this Nation is among the most critical problems of our time. In the coming weeks, we will give great efforts to develop a comprehensive national energy policy to deal with this issue.

One vital aspect of a national energy policy must be a far-reaching research effort. In the past, we have devoted too few resources to develop underused and new sources of energy. We must encourage extensive research into alternative energy sources to meet mankind's needs in the future. In addition, we must find ways to increase the efficiency of the existing energy sources.

I was pleased to see an editorial in the New York Times of Wednesday, January 31, 1973, which called attention to the need for this research.

I ask unanimous consent that the New York Times editorial calling for new directions in energy research be inserted in the RECORD for the benefit of all those interested in this crucial problem of our dwindling energy supplies.

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

RESEARCH FOR POWER

The Federal Government can no longer avoid the responsibility, even under the tightest of budgets, of finding ways of generating more energy to meet this country's pressing needs. Periodic—and belated—relaxations of oil import quotas will at most tide a chilled nation over another winter. The heart of the energy problem must be addressed through a comprehensive research effort, this should have top priority in President Nixon's national energy policy.

One of the palliatives generally offered to minimize worries of diminishing energy resources is the confidence that new technologies and power sources will appear in the normal course of human ingenuity. This is not an empty or wildly optimistic expectation, but it will come about only if the search for these new technologies receives more encouragement than it has up to now.

If energy research programs could reasonably be doubled in the coming few years, an equally important move would be to widen the focus of research. For the past two decades, nearly 85 per cent of the Government's funding has gone into the single pursuit of nuclear power. Once so promising in the first enthusiasm of the atomic era, nuclear power generation is becoming something of a monster, with dangers to people and the environment so awesome as to raise serious doubts that this is indeed the best energy source of the future.

It is not that there is no alternative. There are many. The field of solar energy has hardly been touched—it receives scarcely 1 per cent of current government research, and much of that through space programs that seek miniaturization and other sophisticated conditions that are irrelevant to general consumer use. Yet even this small effort has brought the individual solar heating and cooling unit to the brink of technological and economic visibility. Prospects are equally promising for geothermal energy—the steam, water and hot rock under the earth's surface—and more sophisticated uses of the old reliable coal which remains in such abundance.

Another urgent direction for research is the improvement of efficiency with which existing forms of energy are extracted and transmitted. Incredible waste occurs daily even as alarms are sounded about coming shortages.

At the Middle Eastern oil fields, highly desirable natural gas is routinely burned away as a nuisance in the oil extraction process. And it is not necessary to go so far afield. Under present pricing and technology, domestic gas producers find it worthwhile to extract only about 50 per cent of reserves at any given source before moving on to try elsewhere. In converting both fossil fuels and nuclear power to electricity, perhaps 60 per cent of the potential energy is wasted as useless heat; another 10 per cent disappears in the high voltage transmission lines.

The energy crisis is not an inexorable behemoth that no one can do anything about. Some steps involve paying attention more than money. But others involve money, and this inevitable cost will have to be paid.

SENATOR ABOUREZK APPOINTMENT COMMENDED BY ARGUS-LEADER

Mr. McGOVERN. Mr. President, in the early days of this session I have watched the activities of my new colleague from South Dakota (Mr. ABOUREZK), with growing pride and admiration.

His maiden speech in the Senate was a thoughtful and eloquent discussion of an issue which has rightly become the overriding concern of the Congress—the growth in executive power at the expense of legislative prerogatives. I hope other Senators have had an opportunity to study that address.

I am especially pleased that Senator ABOUREZK has been named chairman of the Interior Committee's Subcommittee on Indian Affairs. It is an assignment for which he is fully qualified by knowledge, interest and experience. His career has been marked by a deep concern for American Indians, and by a firm determination to defend their interests.

The Sioux Falls Argus-Leader, of our home State, has commented favorably on this appointment as well, and I ask unanimous consent that their editorial be printed in the RECORD.

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

[From the Sioux Falls Argus-Leader, Jan. 28, 1973]

AN OPPORTUNITY FOR ABOUREZK

The appointment of South Dakota's U.S. Sen. James Abourezk as chairman of the Senate Interior Subcommittee on Indian Affairs provides a vital role and an opportunity for the freshman senator.

Perhaps no other United States senator has had the close association with American Indian reservation life that Abourezk has. He grew up on the Rosebud Reservation in South Dakota. His father was a pioneer merchant at Mission, S.D. Abourezk has kept close ties with Indians and the situation on the reservation through the years.

The United States' government handling of the Indian problem has been characterized by more bureaucracy than anything else through the long years since the white man won the West. Some policies have been benevolent; some have been poorly conceived. None of them has found precisely the right answer for the Indian problem.

If there has been one bright spot, it's the fact that education has helped the younger generation to become a part of American life. The education Indians have gained has enabled many of them to fit into the mainstream of American life. The sad thing about this bright spot is that there have been far too many Indian students who become dropouts.

The so-called do-gooders and the anthropologists have not helped the Indian situation, with their attempts to keep everything the way it was on the reservations in an earlier day. It should be recalled that Sitting Bull, the great Sioux chief and medicine man who, with others annihilated General Custer in 1876 thought the Indian could survive on the Plains as cattlemen. But the bureaucrats of the 1880s wanted his Hunkpapa Sioux who were installed on grazing land northwest of Mobridge to be farmers.

In western South Dakota, a white rancher usually does not have room to take care of several sons or several families on a ranching unit. The decision involves which son will stay, and who has to go elsewhere to earn a living. Similarly, there isn't enough Indian land for all Indians to remain so close to the land they love. No other people than South Dakota's Sioux love the land quite so much as they do. Job paychecks at home or near the reservation would solve a lot of problems.

Sen. Henry Jackson, D-Wash., chairman of the Senate Interior Committee, said he was pleased to have a senator of Abourezk's qualifications and energy for the committee. He said a thorough study and overhaul of the U.S. government's relations toward Indian people are long overdue.

In his role as chairman of the subcommittee on Indian Affairs, Abourezk will be in a position to provide leadership and new direction that could help bring a better day for America's Indians. This is particularly important to South Dakota, with its more than 30,000 Indians and seven reservations. Abourezk's understanding of what the situation is will be helpful. We wish him well in this assignment. It is a great opportunity to do something that needs doing.

SCALPING THE FIRST AMENDMENT—PART 5

Mr. MOSS. Mr. President, once again, it is time to salute the ingenuity of the White House's dauntless defenders of secrecy in government.

Once again it is time to lament the low regard evidenced by this administration for that freedom—freedom of the press—which has always been considered the single most essential lubricant of a free and democratic society.

Once again the administration has seized an available opportunity to strike a blow for coverup and bureaucratic malingering.

The administration's anti-press campaign appears to be well oiled as it moves through advancing stages of repression toward complete censorship.

Beginning with the Vice President's bullying of the "eastern establishment press," the administration decided to intimidate broadcasters by striking at their pocketbook vulnerability in the jeopardy of license renewal procedures.

Next, the administration moved to place political commissars in charge of suppressing criticism on public broadcasting by directly controlling the "nonpolitical" board of the Corporation for Public Broadcasting.

Refining its techniques so as to maximize every opportunity to rap its critics knuckles, the White House then descended to the mean and petty process of punishing the Washington Post by barring its society editor from White House social functions and by purging loyal and capable administration figures, such as former Commerce Secretary Petersen, for the sin of consorting with known and admitted Washington newsmen.

Now the administration has achieved the censors dream; it has found the means to strike at the dynasty of muckrakers which leads from Upton Sinclair and Lincoln Steffens through Drew Pearson to the vigorous legatees, Jack Anderson, and Les Whitten.

There are, of course, not a few citizens of Washington, D.C.—and that includes many among us—who would not mourn if the voices of Anderson and Whitten were silenced. But how many scandals, how many text book cases of mismanagement, corruption, and arrogance of power would have been unmasked if the Washington press corp were limited to the receipt of handouts from agency PR men.

Whitten was arrested last Wednesday for receiving and processing documents stolen from the Bureau of Indian Affairs.

Note that Mr. Whitten was not charged with violating security regulations. It is not possession of the information contained in the documents which constitutes the crime, but the violation of the Government's property rights in the paper.

What an irony that the administration seeks to protect itself from criticism by claiming its property rights in paper, that single commodity which the vast reaches of the Federal bureaucracy produces in blizzard quantities, blanketing the city with thousands and thousands of official handouts, reports, speeches, pamphlets and releases.

As Nicholas Von Hoffman correctly noted in the Washington Post:

These papers have no monetary value, their only value is as evidence of improper or possible illegal conduct by the government officials who caused Les to be arrested."

Von Hoffman observes that the only rational conclusion to be drawn—

Is that Whitten was arrested to frighten others out of passing information over to Jack Anderson.

So the administration can hang up another scalp in the quest to reduce the first amendment to empty words.

Mr. President, I ask unanimous consent to have printed in the RECORD four earlier statements I have given on this administration's dogged pursuit of the scalps of those who honor the first amendment. Also I submit the text of the Von Hoffman article, as well.

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

[From the Congressional Record, May 21, 1971]

SCALPING THE FIRST AMENDMENT—PART ONE

Mr. Moss. Mr. President, I think it is not immodest of me to observe that I rank high among those most unloved by the broadcast media.

My role in the painful and abrupt excision of $200,000,000 in cigarette advertising revenues, my hearing revelation that cereal advertising directed at children produces

distorted perceptions of nutritional value, my questioning of the role of advertising themes and techniques in producing drug abuse and alienation among the young, have each served to secure for me a permanent place in broadcasting's hall of infamy.

But, I was not, and am not, impressed by the broadcasters plea for more time to sell cancer, nor their self-righteous poses as victims of discriminatory regulation, nor their flag waving of first amendment freedom to justify the broadcast peddling of a lethal commodity.

However, Mr. President, I rise today as an unabashed advocate of the true first amendment rights of broadcasting: The right to develop, shape, and disseminate news and public affairs programing free of the yoke of bureaucratic harassment, free of the chilling threat of congressional overview, and free of the surge toward thought control by an administration exhibiting fear, suspicion, and disapproval of a free and undomesticated press.

This passion for straightjacketing the press is by no means a partisan virus. It appears to afflict equally, occupants of seats of power without regard to party. The apologists in my own party who sought to blame the 1968 Chicago Democratic Convention disaster on the seeing eye and alert ear of the broadcast media provided no gloss of honor to the history of respect for first amendment liberties.

There are certain fundamental verities that ought to be set straight. The first amendment guards the integrity of a broadcast journalist with precisely the same fierce jealousy as it guards Bill Buckley, Nick Von Hoffman, and Jack Anderson.

But is not the broadcaster 's freedom limited by the conditions of his license to utilize the public airways? Is not this the theory upon which the ban on broadcast cigarette advertising was grounded?

The answer to both questions is an unequivocal no.

The marketing of a product—advertising—has nothing to do with the free dissemination of social and political discourse which is the heart of the first amendment. The expert draftsmen of the bill of rights were not preoccupied with the techniques by which Paul Revere sold copperware.

As the distinguished Chief Judge of the District of Columbia Circuit Court of Appeals, Judge Bazelon put it:

"Promoting the sale of a product is not ordinarily associated with any of the interest which the First Amendment seeks to protect. As a rule, it does not affect the political process, does not contribute to the exchange of ideas, does not provide information on matters of public importance, and is not, except perhaps for the Ad-men, a form of individual self-expression. It is rather a form of merchandising subject to limitation for public purposes like other business practices."

But those programs which are the object of administration and congressional ire fall well within the boundaries of the very forms of speech which the first amendment was designed to guard.

The calculated effort launched by the Vice President in Des Moines in November 1969, to inhibit analysis and criticism of presidential proclamations struck right at the core of press freedom. Mao Tse-tung in his country can command and enforce press silence. Spiro T. Agnew in his country cannot.

And what of the latest episode of media intimidation—the assault on the CBS program "The Selling of the Pentagon." The fairness doctrine afforded the program's critics ample opportunity to rebut and counter its message. But the current administration's inquisition into the journalistic process represents a bold abuse of governmental power which cannot be tolerated. As a member of the Communications Subcommittee, I want to commend its chairman, (Mr. PASTORE) for taking no part in the congressional vendetta against CBS, its bitter reward for elevating the sights of journalistic responsibility. I trust that the U.S. Senate will never abuse its process in so mischievous an enterprise.

My distinguished colleague from Wyoming (Mr. HANSEN) recently challenged network reporting of the administration's Laotian adventure. I have had the good fortune to view a substantial segment of the news programing during that period. To the extent that the Senator from Wyoming perceived that its reporting shed no benevolent light on the administration's Laotian operation, I cannot disagree.

The networks reported that eight U.S. helicopters were obliterated in a matter of hours—that was not favorable to the administration.

The networks reported that the segment of pipe ostensibly seized in the current Laotian incursion, had in fact been secured some months previously. That did not shed a favorable light on the administration.

An interview with Vice President Ky, criticizing the tactical design of the operation did not reflect favorably on the administration. Plainly, the interests of the administration in avoiding criticism would have been best served by the suppression of these items, but would the overriding interests of a free society have been equally well served?

And would the interest of a free society have been served by a suppression or deletion of the bitter and impassioned commentary of Harry Reasoner of ABC? A commentary which so moved me that I asked for the text:

"An embargo—a modification of the censorship which prevailed in World War II and Korea—is a legitimate means of protecting American military activity from enemy knowledge.

"But this particular embargo has a smell about it, a smell of being designed instead to protect American military activity from Americans.

"And in a case where Alexei Kosygin, Japanese newsmen, the daily Communist newspaper of Hanoi, the Viet Cong radio and Senator George Aiken—who is incapable of being embargoed—all seem to know what is going on, and when every news service and network has capable reporters on the scene in the northwest corner of South Vietnam—in a case like this the situation has the distinct odor of a managed public relations trick in the guise of security."

I suppose we would all be so much happier if we did not have to confront the horror, the meaninglessness, the perversion of our principles, the death of 45,000 young Americans. We would be happy, that is, until it was too late to comprehend the meaning of our errors and alter our course of conduct. Would the interest of a free society be served by that?

Congress has no right to subpena working papers of a television documentary, no right to question nor to dictate, editorial decisions. It has no right to force the disclosure of news sources. If we cannot stand the heat generated by free press, then we cannot stand the responsibilities of a free society.

The first amendment, battered and assaulted throughout its history has stood us well. Its message to politicians who have tampered with it remains essentially simple. Hands off.

[From the Congressional Record, July 12, 1971]

SCALPING THE FIRST AMENDMENT—PART 2

Mr. Moss. Mr. President, the mental processes of the Nixon administration must surely be ranked as one of the wonders of Western civilization. To illustrate, I invite Senators to join me in a tour of the administration's logic in approaching the profound questions of the public's right to know the truth and the role of the media as the conduit of truth in a democracy.

I am not at all sure that I understand each convolution, but one principle appears firmly affixed in the White House firmament: The public is entitled to know the truth—but not all the truth. The public is entitled to know those truths which the administration decides are good for the public—such as secrets leaked by high administration officials to friendly columnists. But other secrets, including those which are secrets only because public knowledge of the facts would cause embarrassment evidently are sealed off from public scrutiny, unless of course the embarrassment would occur to someone the administration would like to embarrass. In any event, the principle is clear, or is it?

Let me illustrate: Broadcasters may tell truths about Vietnam, the Pentagon, migrant worker camps, ghettos, the White House, unless the truths are embarrassing to respectively, the President, the Secretary of Defense, corporate farmers, administration economists charged with responsibility for producing rosy predictions, and the Republican National Committee.

The administration is very concerned that newspapers and broadcasters "tell it like it is." The vice president, Herb Klein, Mrs. Mitchell, and other learned interpreters of the First amendment insist that columnists and news commentators are allergic to the truth. As between Mrs. Mitchell and Walter Cronkite, I think I know where I would place my money if I had to select that version which most closely approximates objective reporting. But be that as it may, no one can fault the administration for insisting that the media tell it like it is, at least that portion that the administration would permit it to tell.

Now, the Federal Trade Commission has dutifully heeded the White House call for more truth in media. Several weeks ago the Commission announced that henceforth advertisers will be required to substantiate advertising claims. The Commission said in effect to national advertisers:

"If you're going to make claims about your product, then the public is entitled to know that your claims are based upon fact."

And here is the puzzling part. Instead of welcoming what appeared to be a furtherance of the administration's zeal for truth, the President's director of communications inexplicably turned around and beat the Trade Commission over the head:

"I decry this type of operation."

Mr. Klein said:

"It is a move against the free press and should be opposed by both the print and broadcast media as a step which can lead in a changing world to changing regulations which would be to the detriment of the free press."

Well, what can one say about an administration which will defend to the death the freedom of soapmakers to stretch the truth a little bit, while professing so deep a concern for truth in broadcasting and reporting.

I do not want to be unfair. It may be that the administration is perfectly consistent. Its spokesmen, after all, do appear to stand foursquare for secrecy, whether bureaucratic or corporate, foursquare against the public's right to know whether it be the whole truth about Vietnam or the saccharine siren-song of sweetened breakfast cereals.

I suppose in his secret dreams, Herb Klein contemplates the happy prospects of a quiet evening of television, without any bothersome news or public affairs programs on Vietnam and the problems of the cities, just an endless, succession of detective stories and family comedies interspersed, of course, with lots and lots of unfounded commercials.

[From the CONGRESSIONAL RECORD, Mar. 20, 1972]

SCALPING THE FIRST AMENDMENT, PART THREE: "MONEY TALKS OR WHAT'S FAIR IS FAIR"

Mr. MOSS. Mr. President, why is it that whenever a breath of fresh air emerges from a regulatory agency the White House reacts instinctively as if it had been assaulted by a stink-bomb?

And why is it that the administration's sole apparent concern with protecting the first amendment lies in its solicitude for the sellers of soap suds?

The Federal Trade Commission has proffered a modest and, in my judgment, sound proposal urging its sister agency, the FCC to provide limited access to the broadcast media for counter-advertising, including some free time.

Let us be clear about what the FTC has and has not proposed. The FTC has not asked for an "equal time" right of consumer and environment groups to counter the express or implicit claims of all advertising. It has proposed a limited responsibility on broadcasters to provide, for example, a brief segment of prime time on occasion, during which the broadcaster will provide access for paid, as well as unpaid, responsible counter ads.

The FTC's premises are hardly remarkable: Advertisers pay $3.6 billion a year to tell the public what they want us to hear about their products. Because of its unique position, both as a publicly licensed medium of communication and as the most powerful medium of communication, it has never been our national policy to limit the broadcast channels to the highest bidder.

We have come increasingly to recognize that advertisements are much more than simple adjuncts to the commercial marketplace. Television advertising, to succeed, must sell ideas as well as products or services. They must convince us of the need for the product, of its safety, of its social utility. It must convince us that consumption or use of the product will not bring more harm to our society and our environment than good, and they must convince us in general that an upward spiral of increased consumption serves the ultimate good of society.

Maybe; maybe not. In any event there is an increasing number of careful and informed critics who are prepared to argue both generally and specifically that the ideas explicit and implicit in many ads are unsound, unsupported by scientific evidence, or counterbalanced by significant facts, including enormous hidden social and environmental costs.

Curiously, the FTC proposal arises from an admirable sense of constitutional conservatism on the part of the Trade Commission. Chairman Kirkpatrick is plainly reluctant to pursue a course of regulatory censorship of advertising, beyond traditional areas of perception and misrepresentation. The Commission could seek to restrain the public airing of commercials which contain claims of disputed scientific certitude. But the Commission believes that it is far more in keeping with our traditions of free speech, as embodied in the first amendment, to enrich the marketplace of ideas by providing the public with access to differing points of view.

Predictably the White House, speaking for its monied constituents, once again proceeded to jump down the Commission's throat. Mr. Clay T. Whitehead, Director of the Office of Tele-communications Policy, readily attacked the FTC's proposal as irresponsible and unworkable and an effort by the FTC to pass the buck of effective regulation to the FCC. The White House, thereby, echoed the predictable outcrys emanating from advertisers and broadcasters.

Mr. Whitehead told the Colorado Broadcasters Association that the job of guarding abuses and excesses of broadcast advertising should be left to self-regulation by broadcasters and advertisers. One wonders just how far self-regulation would succeed when a broadcaster is faced with the choice of an irresponsible paid ad for a polluting widget and a scientifically solid unpaid counter-ad prepared by a public interest scientists' group, calling attention to the dangers of widget pollution?

I would think that advertisers, confident of the value of their products, would welcome the interest and excitement which could be generated by counter advertising. We might even generate a renaissance of competition for quality and price and maybe instead of imaginary consumers, more often than not put to sleep by commercials, buyers may be stimulated to pay attention to ads. Counter ads might bear such intriguing openers as: "Nice points to watch for in detergent ads." Or, "What do you pay for in a brand name?" Or, "Is buffering worth a plugged nickel in a headache remedy?" Or, "Is there any medical need for a feminine hygiene deodorant?" Or, "What, if any, are the differences between gasoline brands?" Or, "Will sugar rot your teeth?" Or, "Will reliance on headache powders and tension relievers lead to indiscriminate pill-popping?" Or, "The ecological costs of whiter than white wash."

Who knows, despite the fears of the White House, the public might become more informed and alert to the choices which citizens are going to have to make, if their society and their environment is going to be preserved.

But meanwhile the White House continues to redefine the first amendment. As I read Mr. Whitehead and his colleagues, the first amendment now reads as follows:

"The public is entitled to access only to the best opinions money can buy. Paid advertisements must not be "cluttered up" with contrary facts. As for the first amendment in television, soap suds spiels are vigorously protected from contradiction. Indeed they are fully entitled to be as free from criticism as the utterances of the President."

What is Office of Telecommunications policy? Did the Congress create it? Does the Constitution provide for it? Then, what is its role? For whom does it speak? Mr. President, these are very disturbing questions which have arisen of late.

It appears that although the Congress created the Federal Communications Commission to regulate the airwaves, and we gave the President the power to appoint, with advice and consent, the Commissioners, and to set budgetary priorities of the agency, the President has now seen fit unilaterally to preempt the intent and will of the Congress.

I welcome the President's speaking out on matters affecting the American people. But to institutionalize a "Monday morning quarterback" for a legislatively created independent regulatory agency, is to toll the death bells for all regulatory agencies.

Although the Congress, through the Commerce Committee has prodded the FCC to act on cable television, for instance, the Office of Telecommunications Policy has stepped in and preempted the FCC. Now, the Federal Trade Commission has offered an interesting and positive contribution to the Federal Communications Commission, but even before as much as an acknowledgement from the FCC, the Office of Telecommunications Policy has issued its negative decree.

Mr. President, I intend to offer an amendment at the appropriate time during Senate consideration of the Executive budget, to preclude the expenditure of funds for the institutionalization of White House super agencies which interfere with the functions of the independent regulatory agencies.

Independent regulatory agencies need independence. The Commissioners are appointed by the President. They are approved by the Senate. Congress supervises the functions of the agencies through oversight hearings. The judiciary reviews the decisions of the independent regulatory agencies. A White House office meddling in the affairs of the independent regulatory agencies is tantamount to the destruction of our system of checks and balances.

[From the Congressional Record, Oct. 12, 1972]

SCALPING THE FIRST AMENDMENT—PART FOUR

Mr. MOSS. Mr. President, on three previous occasions in the last 18 months, I have risen on the floor of the Senate to describe the administration's penchant for media censorship. I feel it incumbent upon me to describe, once again, another case of the Nixon administration's disregard for our constitutional right of freedom of the press.

Apparently NBC's Cassie Mackin incurred the displeasure of the White House in describing her impressions after 2 weeks on the campaign trail with President Nixon. White House communications czar Herb Klein and has assistant made three calls to NBC officials to complain about the "fairness" of a broadcast Miss Mackin made during the week of September 25.

Miss Mackin's crime? She reported that the President had distorted Senator McGovern's stands on the issues of defense spending, welfare, and tax reform. For example, she said:

"On tax reform, the President says McGovern is calling for "confiscation of welfare" which is not true."

The White House censor immediately picked up the phone and called NBC to protest. Later, to a Washington Post reporter, the Nixon censors commented:

"She, in effect, called the President a liar, We didn't ask that she be fired or removed from covering or reprimanded. We didn't ask anything. We just wanted to register our protest that she was inaccurate."

But according to published reports, another administration satrap has stated that a retraction was demanded by the administration and was refused by the network.

Other reports have indicated that Sander Vanocur, who has been sharply criticized by the administration for his alleged liberal views, will not hold his job with the Public Broadcasting Service after his contract expires in December. If true, is this part of a scheme of the Nixon administration to pack the Corporation for Public Broadcasting?

The administration's concern for the first amendment apparently lies in its solicitude for the sellers of soapsuds, rather than the maintenance of journalistic integrity. Any comments emanating from regulatory agencies or social critics concerning advertising results in a predictable White House response speaking for its moneyed constituents. For example, when the Federal Trade Commission proposed to its sister agency, the Federal Communications Commission, that it provide limited access to the broadcast media for counteradvertising, including paid and unpaid time, Nixon's Director of the Office of Telecommunications Policy readily attacked the Federal Trade Commission and its proposal. This is not the first time this Nixon office has attempted to interpret the first amendment. Apparently, the first amendment according to the Nixon way of thinking reads something like this:

"The public is entitled to access only to the best opinions money can buy. Paid advertisements must not be cluttered up with contrary facts. Soapsud spiels on television are to be protected vigorously from contradiction. Indeed they are fully entitled to be as free from criticism as the utterances of the President."

Who is this censor? The Office of Telecommunications Policy? Did the Congress create it? Does the Constitution provide for

it? Then, what is its role? For whom does it speak?

The Congress, as we all know, created a Federal Communications Commission to regulate the airwaves, and we gave the President the power to appoint the Commissioners, with advice and consent. He was authorized to set budgetary priorities of the agency. But the President has now seen fit unilaterally to preempt the intent and will of the Congress.

It is the right of all Americans, the President and journalists alike, to speak out on matters affecting the American people. But to institutionalize a "Monday morning quarterback" for a legislatively created independent regulatory agency, is to toll the death bell for all regulatory agencies.

Although the Congress, through the Commerce Committee, has prodded the FCC to act on cable television, for instance, the Office of Telecommunications Policy has preempted the FCC. Although the Federal Trade Commission has offered an interesting and positive contribution to the Federal Communications Commission concerning counteradvertising, the Office of Telecommunications Policy has issued its negative decree. The institutionalization of a Nixon censor meddling in the affairs of the independent regulatory agency is tantamount to the destruction of our system of checks and balances.

The first amendment provides for the right to develop, shape and disseminate news and public affairs programing free of the yoke of bureaucratic harassment, free of the chilling threat of administration overview, and free of the surge toward thought control by a President exhibiting fear, suspicion, and disapproval of a free and undomesticated press.

The first amendment guards the integrity of a broadcast journalist with precisely the same fierce jealousy as it guards William F. Buckley and Nicholas Von Hoffman. Those programs which are the object of the administration's ire fall well within the boundaries of the very forms of speech which the first amendment was designed to guard.

This passion for straightjacketing the press was part of a calculated effort launched by the Vice President in Des Moines in November 1969. In an attempt to inhibit analysis and criticism of Presidential proclamations, the Vice President struck right at the core of press freedom. Mao Tse-tung in his country can command and enforce press silence. SPIRO T. AGNEW in this country cannot.

The current administration's inquisition into the journalistic process represents a bold abuse of governmental power which cannot be tolerated.

Plainly the interests of this and other administrations in avoiding criticism would have been best served by the suppression of news from Indochina, but would the overriding interest to a free society have been equally well served?

I suppose we would all have been much happier if we had not had to confront the horror, the meaninglessness of the slaughter, the perversion of our principles, the sadness for the deaths of thousands of young Americans and young and old Asians. We would have been happy, that is, until it was too late to comprehend our errors and to alter our course of conduct. Would the interests of a free society be served by that?

The administration has no right to subpena working papers of television documentaries, no right to question nor to dictate editorial decisions. It has no right to enforce the disclosure of news sources. If we cannot stand the heat generated by free press, then we cannot stand the responsibilities of a free society.

The first amendment, battered and assaulted throughout its history, has stood up well. Its message to politicians who have tampered with it remain essentially simple. Hands off.

The Vice President, communications czar Herb Klein and other learned "interpreters of the first amendment" insist that columnists and news commentators are allergic to the truth. But between the administration and Walter Cronkite, I know where I would place my money if I had to select that version of a newsstory which most closely approximates objective reporting. This administration stands four square for secrecy, whether bureaucratic or corporate, and four square against the public's right to know, whether it be the whole truth about Vietnam or the secret plotting leading up to the Watergate caper. And it stands four square for the political aspirations of a few desperate people clinging on to the coattails of a secretive President.

Our forefathers, 196 years ago, gave us these immortal words:

"A prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people."

Censorship, secrecy, arrogance, lust for power were actions which they denounced.

SAFE STREETS, SAFE PAPERS

(By Nicholas von Hoffman)

A United States senator is robbed and gunned down in front of his house. Such an attack against a member of Congress is a federal offense and therefore within the jurisdiction of the FBI. A shocked and worried capital city waits for L. Patrick Gray's FBI hawkshaws to make a quick, sensational arrest and throw these crooks in the slam.

The hours pass, and indeed a sensational arrest is made, but not of the two men who all but murdered the chairman of the Senate Armed Services Committee. They are as free as birds, but columnist Jack Anderson's senior assistant, Les Whitten, is arrested while covering a story, handcuffed and taken off to jail.

Whitten, whose only suspected crime up to this point may have been translating Baudelaire into English, was busted for receiving stolen property. The property was papers taken from the Bureau of Indian Affairs building by a small army of infuriated red men. After 200 years of betrayal they'd captured the government office which authors their woes and had made off with evidence of their own betrayal. It was a noble theft.

Whitten, who is one of the most esteemed people in the news business, had been on the story for months. He'd flown hither and yon across the country clandestinely meeting with Indians to examine these documents. A number were used as the foundation for Jack Anderson columns, demonstrating yet again how the white man can hose the red man.

One of the columns put the FBI in a bad light and may have had something to do with what they did to Whitten. They had other reasons to get him. He and Anderson had found out about their wasting their time, our money and the country's dignity by setting up hunting blinds to photograph the sex lives of liberal-inclining Hollywood stars.

Of late the FBI has also shown a prurient interest in dirty movies and, according to Whitten, in finding out whether or not a certain famous football player did get a woman pregnant. Some eight or more of them were able, however, to tear themselves away from other people's sex lives long enough to arrest Whitten. They arrested him as he was helping an Indian leader carry several cartons of this stolen material. The Indian was in a hurry. Why? He had an appointment with an FBI agent.

The Indian was going to return the portion of the documents he had in his possession. He'd done the same thing before. He even had the agent's name—Dennis P. Hyten—written on the carton tops, but as Whitten tells the story, when they got down to the jail and they'd mug-shot him, he asked them to take a picture of the cartons as evidence of their intent. "This camera doesn't take pictures of tops of boxes," they told Whitten, who rather wisely believes that that little piece of evidence will never be seen again.

Even if Les were guilty of what they've trumped up against him, he'd have committed no crime. These papers have no monetary value. Their only value is as evidence of improper or possibly illegal conduct by the government officials who caused Les to be arrested.

The case is unlike any of the other freedom of the press cases which have caused so much indignation in the last few years. With the Pentagon Papers the government alleged, albeit untruthfully, that their publication might jeopardize national defense. This has nothing to do with national defense.

In the case of Earl Caldwell of The New York Times, the government claimed that it has a right to force him to reveal his confidential news sources and testify about the possible commission of a crime before a federal grand jury. The Supreme Court ruled against Caldwell. But in Les Whitten's case, if a crime has been committed, the criminals are corrupt bureaucrats in the Bureau of Indian Affairs or angry FBI agents who want Whitten arrested to suppress evidence and obstruct justice.

The only other explanation that offers itself is that Whitten was arrested to frighten others out of passing information over to Jack Anderson. The Eagleton goof of last summer aside, Anderson and his staff have had an astonishingly long run of exposing every kind of crookedness and mendacity at all the higher levels of government, including the White House.

You may say an arrest isn't that big a thing, but it's a shaking and shocking experience. Merely being arrested is punishment, and even if you beat it you still lose because of the thousands of dollars of legal fees and hours of lost time the procedure costs you.

It doesn't cost L. Patrick Gray and his transom peepers a thing. It's safe and it's fun busting a law-abiding guy like Whitten. Putting the cuffs on him isn't like tracking down and catching guys who put two bullets in John Stennis. That takes a little moxie, so in the meanwhile. if the streets get more and more dangerous and what you read in the papers safer and safer, you know why.

U.S.S. "PARCHE" LAUNCHED

Mr. CANNON. Mr. President, an event of more than passing significance to all those concerned about our Nation's defense took place on January 12, 1973, in Pascagoula, Miss. On that date, the country's 105th nuclear submarine, the U.S.S. *Parche*, was christened and launched.

The *Parche*, which is designed primarily for antisubmarine missions, is one of the world's newest and most modern ships. She was christened by Mrs. Philip A. Beshany, wife of Vice Admiral Beshany, former Deputy Chief of Naval Operations for Submarine Warfare, and now commander of the U.S. Taiwan Defense Command. Their daughter, Mrs. Natalie B. Braniff, served as matron of honor.

My distinguished colleague from Nevada (Mr. BIBLE) delivered the principal address at that ceremony. His comments were both meaningful and inspiring. As a member of the Defense Appropriations Subcommittee and the Joint Congressional Committee on Atomic Energy, Senator BIBLE is recognized as a leading

authority in the fields of nuclear energy and national defense.

For these reasons, I believe his remarks will be of interest to other Members of the Senate. Therefore, I ask unanimous consent that his address be printed in the RECORD.

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

REMARKS BY SENATOR ALLEN BIBLE

It is a high privilege to take part in today's launching of the U.S.S. *Parche*, the nation's 105th nuclear submarine. This event marks the 112th time a United States nuclear naval vessel has gone down the ways.

For this reason, I believe it is particularly appropriate, at this time, to recognize the dynamic leadership which Vice Admiral Hyman Rickover has given to our nuclear program. One may not always agree with "Rick" but one always knows he's there, pushing with all his boundless energies for a modern nuclear fleet.

I know this is a time of great pride for the people who have played a role in building this remarkable vessel and a time of tremendous excitement and anticipation for those who will serve on her.

Similar feelings must have been felt as the first *Parche* was launched at Portsmouth Navy Yard in New Hampshire 30 years ago.

Launched in 1943, the first *Parche* conducted six wartime patrols, sinking or damaging over 30,000 tons of enemy vessels on her first voyage.

By the war's end, that gallant ship had earned five battle stars and two Presidential unit citations. And her crew had amassed 28 medals for bravery including one medal of honor, three navy crosses, eight silver stars, one legion of merit and fifteen bronze stars.

After the war, the *Parche* was assigned to "operation crossroads" as a target ship for the atomic bomb tests at Bikini.

Arriving at Bikini Lagoon on the first of July, 1946, she survived both the air and underwater blasts with virtually no damage.

After decontamination, she was assigned to Naval Reserve Training duty on the West Coast for 23 years. In 1969, she was stricken from the rolls. And today, her conning tower has been established as a memorial in Pearl Harbor.

The epic achievements of the first *Parche* have set a high standard for her modern namesake, but I am confident she will be more than equal to the challenge.

As we launch the *Parche*, we proudly reaffirm a basic tenet of American policy. The purpose of this new ship and indeed, the purpose of our armed forces, is to insure peace, not to jeopardize it; to deter conflict, not to provoke it.

In the past few years, we have learned firsthand one of history's most important lessons—no nation, no matter how powerful or how convinced of the righteousness of its cause, can successfully play policeman for the entire world.

For too many years, American servicemen have been dying in another peoples' conflict. Today there is no greater national need than the immediate termination of our involvement in the Vietnam war. I share the hope of all our people that the President will be able to reach a negotiated settlement in the Paris talks.

However, the Congress also has a heavy obligation to see to it that the national objective to disengage our forces is achieved. I do not know if there is a legislative route to ending this tragic conflict. I only know we must try again to find one.

It is true that the President can end our participation in Vietnam and bring about the complete withdrawal of our forces with a stroke of the pen. It is equally true that the Congress cannot do so. Nevertheless, Congress can and must act if the talks in Paris drag on. We are supplying the funds. We are supplying the men and equipment.

Hopefully, working together, the Congress and the President will be able to bring an end to this war and secure the immediate return of our prisoners of war and missing in action.

But once the tragedy of Vietnam is behind us, as it surely will be, we cannot let its shadow blind us from our responsibility to our own security. We must not let our reluctance to fight another nation's war weaken our resolve to defend ourselves. President Eisenhower once wisely noted that "until war is eliminated from international relations, unpreparedness for it is well nigh as criminal as war itself."

As we approach the 20th anniversary of nuclear sea power, one of our major defense problems is that too many of our ships have reached the point of obsolescence.

At the present time, 68 of our 596 ships are of World War II vintage. And an additional 115 were built immediately after that conflict. It has always been a naval truism that successful maritime operations have never been achieved with the last war's ships.

As the American Navy is faced with the challenges of an aged fleet and the reduced buying power of the dollar, the Soviet Navy is embarked on a vigorous and accelerated program to expand its global seapower capabilities.

We have seen, for too many years now, dramatic evidence of the rapid rate of the growth of Soviet seapower.

In 1965, the Russians had 25 nuclear submarines compared to our 50. By 1970, the count for Russia had increased to 47, as compared to our 90. Today, only three years later, the Soviet Navy has 106 in comparison to our 99 operational nuclear submarines.

Just two years ago, we thought that the Soviets might match us by 1975. The cold hard fact is that they caught up and passed us last year.

Against this background the launching of the *Parche* marks a significant step forward in our effort to modernize the Navy. In the days ahead, we must continue our efforts to develop and expand our nuclear fleet. I, for one, am convinced that a nuclear Navy, both surface ships and submarines, offers our country one of its strongest deterrents to another world war.

Today as we launch this new submarine, the United States and the Soviet Union are preparing to resume the SALT talks. It is my earnest hope that these negotiations will produce a workable agreement which will reduce our requirements for strategic weapons so that we can turn our attention and resources to problems here at home.

But until then we cannot evade the realities of the challenges to our national security. However great our hopes for the final success of the SALT talks, we must, as a matter of prudence, face the realities of the threats to our security as they exist today and as they are projected for the future.

It is this same sense of prudence that dictates our presence here today. Quite simply, we are here because we are determined to keep America strong and free.

The ship we launch today differs greatly from her namesake of World War II. Enormous range, high speed, far-reaching sonar, advanced weapon systems . . . make her a more versatile and efficient submarine. Those assets are necessary because she sails into a far more complex world than her predecessor.

The new *Parche* will soon join her sisters in the silent service. She is one of the finest products of the shipbuilding art—a ship of which the work force of Ingalls Shipbuilding should be justifiably proud.

But despite the brilliant design and engineering, and the painstaking labor which went into her, she will only be as effective as the men who man her.

Theirs is an enormous responsibility requiring unusual intelligence, physical fitness, stability and sound judgment.

To Commander Richard N. Charles, the prospective commanding officer, and to Lt. Commander Charles MacVean, the executive Office, and to all the officers and crewmen of the *Parche*, I congratulate you on your new assignment.

I am certain that your dedication and professionalism will serve this nation well as you assume the great responsibilities of safeguarding our freedoms.

Good luck and God speed.

BANK OF TOKYO OF CALIFORNIA

Mr. CRANSTON. Mr. President, because of my personal knowledge of the significant role of the Bank of Tokyo of California in contributing to the unprecedented industrial and commercial development that has made my State first in the Nation, to the remarkable rehabilitation of the Japanese American communities, and to the phenomenal growth of our foreign commerce, especially with Japan, may I take this opportunity to call the attention of my colleagues in the Congress to the 20th anniversary of this major financial institution, which is being commemorated later this week by civic luncheons in San Francisco and Los Angeles.

The Bank of Tokyo of California is unique in that it is both a domestic commercial bank serving the needs of all Californians and, an international financial institution actively engaged in the promotion of California's world trade.

The Bank of Tokyo of California is a State-chartered affiliate of the Bank of Tokyo, Ltd., which is one of the world's leading international banks and Japan's sole specialized foreign exchange bank. The parent bank, with assets of more than $13 billion, maintains offices in Washington, D.C., New York City, and Chicago among its 140 offices throughout the world.

The California organization was established in 1953 through the efforts of leading California citizens who recognized the need for specialized assistance if members of the American Japanese communities were to reestablish their homes and businesses after their wartime dislocations. As the first such bank in the postwar period, it contributed substantially to the reconstruction effort. Indeed, we have only to observe the strong economic, political, cultural, and civic leadership emerging from these communities in California to appreciate the foresight of California authorities and the bank's organizers in providing a solid economic base for the progress of the past two decades.

As the bank's efforts to help Japanese Americans became more widespread, as might be expected its branches began more and more to serve the larger community. From its first two small offices in San Francisco and Los Angeles 20 years ago, it now has 16 modern branches with a 17th to open in Oakland next month. Its branches are in every section of the State, though—of course—in areas of Japanese American population concentration. It does have one branch,

however, that is overseas—in Nassau—to facilitate foreign transactions.

From a million dollar organization in 1953, it has grown into a statewide network with assets of more than $720 million and is thus the largest foreign-affiliated bank in California. Once, almost all of its clients were of Japanese ancestry. Today, more than 50 percent of its depositors are of non-Japanese origin. And, of the more than 560 employees, only 35 are from Japan. All the rest are California residents, of all nationalities and creeds.

The bank's second prime objective when established was to assist in the rebuilding of the rich two-way trade between California and Japan that had flourished before the war. The Bank of Tokyo's predecessor, the Yokohama Specie Bank, had actively served California and foreign traders since the 1880's, and the present California bank continues that operation.

Since California is the continental mainland's gateway to Japan and the Far East, the Bank of Tokyo has had a major part in the postwar economic development of the Pacific region. Today, Japan is our biggest foreign buyer of agricultural products and second only to neighboring Canada in total trade. Two-way United States-Japan trade last year—1972—was about $9 billion, with almost half of that passing through the California ports of Los Angeles and San Francisco.

Last year, California alone accounted for about half a billion dollars worth in exports to Japan.

Of course, we are all concerned with the tremendous imbalance in our trade with Japan and we are hopeful that meaningful measures will be taken soon to reduce that imbalance into more manageable proportions, as the President of the United States and the Prime Minister of Japan agreed last December in Honolulu.

Perhaps the Bank of Tokyo can provide some of the needed leadership in this regard.

In any case, under the active leadership of its president, Masao Tsuyama, a veteran of more than 32 years of world banking experience, the Bank of Tokyo of California not only finances a substantial share of the trade between the two Pacific allies, but also provides counseling and other services to those who would place their confidence in California and the United States in her economic future, and this includes Japanese companies. The bank's management strongly believes that international investment and the cooperation it generates will play a leading role in the development of the great Pacific Basin where more than half of the world reside. The bank believes that the peace and the prosperity of the Pacific depend on the continued expansion of trade and investment opportunities and of cooperative efforts in political, commercial, educational, cultural, social, and other activities that are so meaningful in modern society.

The Bank of Tokyo of California, aside from the contributions it makes to the strength of our Japanese American citizens, the California economy in general, and our Nation's world trade, is also committed to sharing its colorful heritage with the many communities it serves. Through charitable contributions to whorthwhile events and activities, sponsorship of traditional Japanese cultural activities, and exhibitions of classic Japanese arts, the organization has demonstrated its civic-mindedness and its desire to be a part of the locality, State, and Nation it serves so well, while also promoting an appreciation in California especially of the culture of another country.

On this 20th anniversary of the founding of the Bank of Tokyo of California, I know that Members of Congress will join me in wishing this institution continued growth and service to the people and industry of the State and Nation.

TRIBUTE TO ROBERT M. BALL

Mr. WILLIAMS. Mr. President, like many Americans, I was deeply disturbed by President Nixon's decision to accept Commissioner Robert M. Ball's pro forma resignation.

The action is particularly disconcerting, because the Social Security Administration is now faced with perhaps its most challenging and complicated mission: preparing for the administration of the landmark supplemental security income program and implementing the major reforms in H.R. 1.

The importance of this task cannot be understated. It cries out for administrative competence, social ingenuity of the highest order, and outstanding leadership qualities.

Bob Ball possesses these traits in abundant quantities. I can only hope that his successor—who ever he may be—will bring to this important office the same skill, dedication, and degree of commitment which characterize Bob Ball.

In my judgment, the Social Security Administration is one of the most efficiently administered—if not the most efficient—of all governmental agencies. There are, to be sure, some problems on occasions. But on the whole, the operation has been administered smoothly and effectively—in large part because of Bob Ball's skillful leadership and direction.

Each month this agency is responsible for assuring that social security checks are sent to over 28 million beneficiaries.

For the vast majority of older Americans, social security constitutes their economic mainstay. Almost two-thirds of retired workers and one-half of aged couples depend upon social security for more than 50 percent of their income.

Equally important, social security also helps to keep more than 12 million persons out of poverty. Without these benefits, millions of individuals would be forced onto the welfare rolls. Others would be required to depend upon relatives, many of whom would be financially hard-pressed to provide economic assistance. And without these payments, the great majority of social security beneficiaries would not even achieve a moderate standard of living.

Bob Ball has served the social security system with distinction since he first began his remarkable career as a grade 3 on a $1,620 year job as a field representative in 1939. He worked himself up quickly through the ranks, becoming Deputy Director of the Bureau of Old Age and Survivors Insurance in 1952. And in 1962 he became Commissioner of Social Security. He has been a superb public servant and has received numerous awards including:

The HEW Distinguished Service Award in 1954;

The National Civil Service League's Career Service Award in 1958;

The Rockefeller Public Service Award in 1961; and

The Arthur J. Altmeyer Award in 1968.

He will truly be missed, and I can only wish him well in his new endeavors. But, I also hope that he will continue to share his wisdom and perceptive counsel with appropriate congressional committees when social security and other related income maintenance issues are considered.

Several recent newspaper articles have paid special tribute to the outstanding qualities of Commissioner Robert Ball.

Mr. President, I commend these articles to my colleagues and ask unanimous consent that they be printed at this point in the RECORD.

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

[From the Federal Times, Jan. 24, 1973]

ROBERT BALL LEAVING SOCIAL SECURITY POST

WASHINGTON.—The White House has accepted the resignation of Robert M. Ball, commissioner of Social Security.

Ball, who presided for more than a decade over the ever expanding activities of SSA, wished to stay on. But his pro forma resignation, submitted to President Nixon along with those of all other political appointees, was accepted.

In a letter to SSA employes Ball said that though he personally longed to be freed from the "pressures of a highly demanding administrative job . . . I would have felt obligated to stay on to help implement the important new legislation contained in H.R. 1 had the President felt that it was of crucial importance that I do so."

Ball revealed to SSA employes that despite the administration's drive to reduce federal employment, "we have approval for the increased staffing necessary to put the new legislation into effect so that your efforts can move forward at full speed."

He noted that it was "particularly difficult" for him to leave at this time "and not be part of these efforts."

His letter to Nixon contained a similar observation. Saying that even though his personal preference was to leave SSA, "I have refrained from doing so only because of my concern for the program and the social security organization during the coming period of great challenge and difficulty arising from the need to implement the major new legislation contained in H.R. 1."

The recently enacted welfare reform amendments will federalize certain state welfare programs, change eligibility standards, and draw thousands of additional employes into SSA, mostly at the district and field levels.

Numerous SSA employes have expressed displeasure at Nixon's action because they regarded 58-year-old Ball as an able and just administrator.

Many congressmen, including Rep. Daniel J. Flood, D-Pa., are reportedly unhappy at Ball's ouster. Flood is chairman of HEW's appropriations committee.

A Capitol Hill source said: "It was unlikely that the Nixon administration would retain Ball. You've got to remember that Ball was an old-line, independent-minded administrator, not the type that could be a yes-man to anyone, or be controlled by the White House. The Nixon game plan is to appoint bureaucrats who can be directly controlled by the White House."

Ball also was highly regarded by senior citizen organizations across the nation. A spokesman for the National Council for Senior Citizens said it was "unfortunate" Ball was leaving. The spokesman said Ball "administered a complicated program with great devotion and was one of our most outstanding public servants."

An SSA spokesman said Ball plans to work privately on development of long-range policy in health insurance, welfare, social security, and the organization of government for dealing with social programs.

A federal career employe, Ball started in the ranks as a field assistant in a social security district office in New Jersey in 1939 at a salary of $1,620 a year. He devoted his entire career to social insurance.

Before President Kennedy appointed him SSA commissioner, 11 years ago, Ball served as deputy director of the former Bureau of Old Age Insurance.

He is a recipient of the Rockefeller Public Service Award "for distinguished service in the field of administration," and the National Civil Service League Award citing him as a top authority on social security and also for "his notable ability to lead and inspire those who work with him."

During 1947 and 1948, Ball was staff director of the Advisory Council on Social Security to the U.S. Senate Committee on Finance. In 1952, under the sponsorship of the National Planning Association, he wrote the study, "Pensions in the United States," which was published by the Joint Committee on the Economic Report of the Congress in 1953.

Born in 1914, Ball received his M.A. in economics in 1936 from Wesleyan University.

[From the Port Arthur News, Jan. 15, 1973]

WAS BALL DISMISSAL MISTAKE?

President Nixon's dismissal of Robert M. Ball as commissioner of Social Security raises some serious questions about how to achieve and maintain skillful management in the government bureaucracy.

Since the agency has always been deemed to be off-limits politically, it would be a bad slip if the President were to name a successor whose experience suggested he was less a qualified social insurance expert and more an out-and-out political appointee.

But, actually, that is the shallow, obvious aspect of the matter, easy to judge. There is a deeper issue.

Ball has headed the Social Security Administration for nearly 11 years, and for roughly an equal time before that he was deputy commissioner of SSA's predecessor agency. His entire working career falls within the social insurance realm.

Does this kind of service make a man go stale and leave him empty of new ideas?

There is a school of thought that would say yes, automatically. The proponents of this view contend that turnover at the top level should occur fairly frequently. The argument can be guessed. Change assures regular infusion of fresh ideas, new energies, flexibility. Men of long tenure, it is suggested, cannot fill this need.

Yet there is a strong counterargument put forth steadily in the field of public affairs. Its core is that there are always men with a great capacity for self-renewal, continuing growth, and adaptability to altered circumstances and problems. Such men not only can meet new challenges, but have a way of searching them out.

Does Robert Ball deserve such an accolade as this? There are a good many men in the U.S. Congress and many practiced observers of public service performance who believe he does.

He has presided over Social Security during its transformation from an agency of modest scale to one of enormous size and increasing complexity, and seen it hailed as the best of bureaucracy. In 1965, he laid over it the huge framework of the Medicare program, a task reasonably pictured as one of the greatest peacetime administrative assignments in history. He is a tireless innovator who knows his field as he knows the lines in his hands.

In 1972, Congress handed SSA new challenges for 1973 and 1974. Everything in the record suggests Ball was the man above all to meet them. His expertise is unmatched, and at 58 his powers and talents seem undimmed. He is a public servant of genuine distinction. In casting him out, President Nixon has made a gross error in judgment.

[From the Scranton Times, Jan. 13, 1973]

NIXON MISTAKEN IN FIRING BALL

(By Bruce Biossat)

WASHINGTON.—President Nixon's dismissal of Robert M. Ball as commissioner of Social Security raises some serious questions about how to achieve and maintain skillful management in the government bureaucracy.

Since the agency has always been deemed to be off-limits politically, it would be a bad slip if the President were to name a successor whose experience suggested he was less a qualified social insurance expert and more an out-and-out political appointee.

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The argument has undeniable plausibility. The woods are full of executives and administrators whose energies flag and whose imagination runs thin. Rigidity and complacency often set in all too quickly. Against this very real prospect, change—even systematic change—looks like a sound rule.

Yet there is a strong counter-argument put forth steadily in the field of public affairs. Its core is that there are always men with a great capacity for self-renewal, continuing growth, and adaptability to altered circumstances and problems. Such men not only can meet new challenges, but have a way of searching them out.

Here again, the contention has undoubted force. The corporate and government landscape is well dotted with figures whose long service in top posts is a consequence not of power but of demonstrated abilities maintained through markedly changing times.

Proponents of this point argue, incontestably, that to dispense with or shift such leadership from its proven realm is to waste human resources, to deprive a society of commanding individuals who serve its institutions as a keystone holds an arch together.

Does Robert Ball deserve such an accolade as this? There are a good many men in the U.S. Congress and many practiced observers of public service performance who believe he does.

He has presided over Social Security during its transformation from an agency of modest scale to one of enormous size and increasing complexity, and seen it hailed as the best of bureaucracy. In 1965, he laid over it the huge framework of the Medicare program, a task reasonably pictured as one of the greatest peacetime administrative assignments in history. He is a tireless innovator who knows his field as he knows the lines in his hands.

In 1972, Congress handed SSA new challenges for 1973 and 1974. Everything in the record suggests Ball was the man above all to meet them. His expertise is unmatched, an at 58 his powers and talents seem undimmed. He is a public servant of genuine distinction. In casting him out, President Nixon has made a great error in judgment.

[From the New York Times, Jan. 5, 1973]

SOCIAL SECURITY CHIEF IS BELIEVED OUT

WASHINGTON, January 4.—President Nixon plans to accept the resignations of Robert M. Ball, head of the Social Security System for a decade, and Phillip V. Sanchez, director of the Office of Economic Opportunity, Government sources said today.

Mr. Ball, it appeared is being pushed out of Government. However, there were indications that Mr. Sanchez will be promoted.

The removal of Mr. Ball, who heads both the retirement benefit and Medicare programs, will all but complete the removal of the entire top management staff of the health component of the Department of Health, Education and Welfare.

Announcement of the move, which is expected Friday, is believed likely to provoke bitterness among Social Security employees, who have considered themselves to be above partisan politics.

Informed sources have indicated that Mr. Sanchez, who has made many speeches praising the President for his initiatives for Mexican-Americans, is in line for promotion—perhaps to an ambassadorial post in Latin America.

His departure comes at a time when the poverty office is faced with serious morale problems, largely the result of the uncertainty of its continued existence under the President's government reorganization plan.

Mr. Ball has been an advocate of an expanded Federal role in welfare and health affairs, which the Administration is trying to de-emphasize in favor of more state control.

Mr. Ball and Mr. Sanchez are known to have requested that they be allowed to remain in their present posts.

Mr. Ball, who has spent his entire career in the Social Security Administration, joins a list of a dozen key agency officials who are leaving. His departure, however, is not expected to have any immediate impact on Federal health policy.

Mr. Sanchez, appointed in September, 1971, has been the fourth director of the poverty office since 1969. He succeeded Frank C. Carlucci, who moved to high posts at the Office of Management and Budget and has now been designated Under Secretary of H.E.W.

[From the Asheville Times, Jan. 6, 1973]

AN UNFORTUNATE NIXON FIRING

President Nixon's shakeup of the federal bureaucracy perhaps moved a step too far when he accepted the requested resignation of Robert Ball as head of the Social Security Administration. The word out of Washington hints that Ball, who worked his way up from the civil service ranks and was named Social Security Administrator by President

John F. Kennedy, had too many close contacts in Congress for the liking of the White House.

If so, it is a pity. Robert Ball served with considerable distinction as head of the vast Social Security Administration. He was one of the architects of Social Security's disability and Medicare provisions, and received the Rockefeller Public Service Award for the supervision of the vast social insurance program which now provides benefits to one of every nine Americans.

Ball can bow out with a very clear conscience. Knowledgeable observers in Washington rates the Social Security Administration as perhaps the best of all the federal agencies. There has never been a breath of scandal connected with it, and the experts hold that administratively it functions with a minimum of waste and lost motion. People who have had occasion to do business with regional Social Security offices can testify to the fine courtesy and efficiency of the staff members.

The nation owes a debt of thanks to Robert Ball. It's too bad that he had to fall victim to the Nixon pruning hook.

[From the Augusta Chronicle, Jan. 6, 1973]

BALL RESIGNATION CONFIRMED: "NEW DIRECTION" PLANNED IN SOCIAL SECURITY SETUP

WASHINGTON.—The White House confirmed Friday that Robert Ball is stepping out as Social Security administrator and promised "there will be new direction" of the vast social insurance system.

Press Secretary Ronald L. Ziegler said Nixon has accepted Ball's resignation "with appreciation for his services and contributions" in his decade as head of Social Security.

But he refused to say whether Ball. in submitting the pro forma resignation, had expressed a desire to continue a government career which dates from the New Deal days. "The commissioner is returning to private life . . . that's all I have to say," Ziegler responded when asked why Nixon is replacing him.

Ball's successor was not announced, but Ziegler said "there will be new direction" in operation of the system which provides benefits to one of every nine Americans.

Ziegler also announced the President has accepted "with deep regret" the resignation of Andrew E. Gibson as assistant secretary of Commerce for domestic and international business. Gibson previously served as maritime administrator. He will return to private life, Ziegler said.

He would not discuss the President's plans concerning Philip Sanchez, Office of Economic Opportunity director. Sanchez' resignation from the poverty-fighting post reportedly has been accepted by Nixon.

MILLS SAYS CONGRESS WILL NOT BUY POLITICALIZED SOCIAL SECURITY

WASHINGTON.—Congress never will allow the Social Security system to be politicalized, Rep. Wilbur D. Mills, D–Ark., said Friday.

Mills is chairman of the Ways and Means Committee which handles Social Security legislation. He commented in connection with the departure of Robert Ball as administrator of the system and the subsequent remark by White House Press Secretary Ronald Ziegler that "there will be new direction" in operation of the system.

"I hope that did not mean the administration wants to politicalize Social Security," Mills said. "I don't believe it does because they know in advance Congress would never permit it."

Mills described Ball as "a near genius in administration" and said "I will watch his successor very carefully."

[From the Washington Star, Jan. 5, 1973]

SOCIAL SECURITY CHIEF DROPPED, 33-YEAR VETERAN

(By Philip Shandler)

President Nixon has decided not to retain Social Security Commissioner Robert M. Ball in the second term. Ball's departure comes as the Social Security program is on the verge of what may be the biggest job ever for an agency with one of the most complex missions in government.

In a statement prepared to coincide with the impeding White House announcement, Ball, 58, said recent Social Security legislation was so significant "it can be said that the program has come of age." And he added:

"It is particularly difficult for me to leave now and not be a part of these efforts."

The President was expected to announce soon, possibly today, that he has accepted the resignation of Ball, a 33-year federal careerist who for more than a decade has overseen unprecedented expansion of what is now the world's biggest retirement and insurance system.

PRAISE FROM MILLS

Rep. Wilbur Mills, D-Ark., chairman of the House Ways and Means Committee, which handles Social Security legislation, said it would be "hard to find an equal to Bob Ball," whom he called "a near genius."

Dialogues between Ball and Mills have been a familiar and instructive fixture of congressional activity for years. And Mills said he would be "watching carefully" the choice of a successor.

Social Security annuity increases, Medicare extensions and the first federalization of a welfare program—the so-called adult categories of state aid to the needy aged, blind and disabled—were voted by Congress in its last session.

This will require, Ball said, "at least as much effort and complexity for the Social Security Administration as the setting up of the Medicare program" of health insurance for the elderly eight years ago.

DEPUTY TO REMAIN

But he insisted that his resignation is a "mutually agreeable departure," and that he had "every confidence that the organization will perform well" under new direction.

There was no immediate explanation from the White House for letting Ball go, nor on a successor. His deputy, Arthur Hess—the only other political appointee at Social Security has not been told to go.

Ball said he would stay on until a successor takes over.

A spokesman for Sen. Russell Long, D-La., chairman of the Senate Finance Committee, said he hoped the White House "won't politicize the job."

This could happen, however, with what many see as a conservative mood clouding the prospect for further expansive social legislation from the Congress that convened this week, and thus minimize the need for a Social Security chief of Ball's expertise.

Ball, a native of New York, developed an interest in Social Security while a senior at Wesleyan University in 1935, from a professor who was a consultant on the newly created program.

In 1939, he took a $1,620 job as a field representative, became a protege of Wilbur J. Cohen, and rose to become deputy director of the Bureau of Old Age and Survivors Insurance in 1954.

Cohen was named secretary of the Department of Health, Education and Welfare—Social Security's parent agency—by President John F. Kennedy, and Ball was promoted to head the Social Security program in 1962.

"SUPERB ADMINISTRATOR"

"A simply superb administrator," Cohen was quoted as describing Ball in a profile a few years ago.

At the same time, Ball was described by an anti-poverty worker as "my favorite bureaucrat . . . This guy really cares."

A husky six-footer with a quiet voice, Ball seemed at congressional hearings to have an inexhaustible supply of facts and patience.

In recent years, he has received top awards for service from both the government and the private sector.

In an interview, Ball said there was "very little different" he would like to have seen develop in his field legislatively.

"We've got about all one can say grace for now," he said.

When he leaves, Ball intends to write a book—"doesn't everyone?"—he said. It will deal with "the tendency in some quarters to see Social Security as just another government program."

[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.

KIDNEY DISEASE

Mr. HARTKE. Mr. President, recently there has been some discussion in the press about the costs of the Hartke-Long kidney disease amendment to H.R. 1 which was passed by the Senate and accepted in House-Senate conference late last year.

The distinguished Senator from Louisiana (Mr. LONG) and I sponsored this lifesaving proposal because hundreds of Americans were dying each year despite the fact that there exists the technology to keep them alive as productive citizens. We saw no reason to let a person's ability to pay be the sole determinant of whether he lives or dies.

Ours was not a proposal made in haste. For the past 5 years, I had offered similar legislation. Several States, including my own State of Indiana, enacted lifesaving programs of their own. We have the experience of these programs and countless studies over the past several years.

The distinguished members of the House-Senate conference committee did not act in ignorance. They had cost estimates supplied by the administration—cost estimates which I believe were far sounder than some of the wild projections now being offered.

Mr. President, I ask unanimous consent that a statement of the National

Kidney Foundation, which supports my contention as to the need for and reasonableness of the Hartke-Long amendment, and three relevant newspaper articles on this subject be printed in the RECORD.

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

STATEMENT OF EDWARD J. MITCHELL, EXECUTIVE DIRECTOR, PRESS CONFERENCE—WEDNESDAY, JANUARY 17, 1973

On January 11, 1973, a front page story appeared in The New York Times headlined, "Program to Aid Kidney Victims Faces Millions in Excess Costs".

The story suggests that, under the provisions of H.R. 1, the Social Security Amendment enacted into legislation by Congress and the President, the Federal Government in the 1980's will have to spend as much as one billion dollars a year to save the lives of some 5,000 Americans each year who suffer from kidney disease. A subsequent editorial in The New York Times on Sunday, January 14, 1973, headlined "Medicarelessness", goes on to fault the Congress for blundering into a poorly understood provision for kidney care, and suggests that "if a billion dollars has to go to prolonging the lives of thousands of kidney disease victims, that is a billion dollars that cannot go to eradicating slums, improving education, or finding a cure for cancer".

The National Kidney Foundation finds these two articles to be both misleading to the public and threatening to the cause of future national health care programs. They offer data which is incorrect, omit much pertinent data, and pose an editorial stance which we believe is counter to the wishes of the American people.

We will first address ourselves to the faulty data on which both articles are based. All surveys as to the incidence of end-stage kidney disease suggest a conservative estimate of 13,000 new patients each year in the United States who are candidates for the therapies of dialysis and transplantation, not 5,000 as the Times article states. In other words, over a period of ten years there would be approximately 130,000 individuals who might have benefited from the therapies of dialysis or transplantation.

Secondly, it is alleged by The New York Times that treatment for these kidney patients will cost one billion dollars per year by the 1980's; yet the Social Security Administration, in its actuarial estimates provided to the House-Senate conferees on H.R. 1, projected a cost of $55 million in 1973; $102 million in 1974; $158 million in 1975; $193 million in 1976; and $252 million in 1977. These projections extend only to five years for several reasons:

The state of the art of kidney treatment is in constant flux. For example, in the last five years, in spite of the sky-rocketing inflation rate of medical care, the cost of artificial kidney treatment has decreased. Since 1961 it has, in fact, decreased 65%.

The same is true in the therapy of transplantation, for the Gottschalk Report in 1967 indicated that the cost of a kidney transplant was anywhere from $20,000 to $40,000. According to Dr. Samuel Kountz, Professor and Chairman of the Department of Surgery at Downstate Medical Center, the cost of kidney transplantation now averages $13,300, which reflects a minimum decrease of 33% since the mid 1960's.

Considering these factors, along with the constant technological improvements made in both therapies, we cannot help but believe that with each succeeding year, artificial kidney treatment and transplantation will become less expensive. Furthermore, transplantation, a therapy totally omitted from the original article, is constantly being improved. With the increasing availability of cadaver kidneys for transplant, and with new breakthroughs in immunosuppressant therapy that will prevent organ rejection, more kidney patients will be transplanted thereby eliminating the need for artificial kidney treatment for those end-stage kidney patients, and therefore spiralling the cost of the total program downward.

We suggest that new modalities of treatment over the next ten years could well continue to reduce both the cost of kidney treatment and the total patient load.

We will next address ourselves to the accusation by The Times of "carelessness" on the part of the Congress of the United States in enacting this kidney legislation.

During the last 5 years, the American people have made their feelings known to their representatives in Congress concerning catastrophic illness. Congress, in enacting the present legislation, has in fact drawn upon a broad field of experience in the states: 42 states at the present time have kidney disease legislation; within the last five years there have been over 100 bills separately introduced by members of Congress, demonstrating wide interest and recognition of this problem; Vocational Rehabilitation Programs have had lengthy experience in the kidney area in over 20 states; the need for catastrophic illness coverage for kidney disease victims has been recognized, among others, by Senators Long and Kennedy and by Congressman Mills who proposed the Mills Bill which involved catastrophic insurance specifically for patients with end-stage kidney disease.

In addition, the Bureau of the Budget in 1968 convened the Gottschalk Committee specifically to study the problem of kidney disease. The Department of Health, Education and Welfare in the so-called Burton Report made an exhaustive study of the kidney disease problem. Shortly thereafter Health, Education and Welfare retained Arthur D. Little to do a study and they presented a two volume report.

We therefore have confidence that a responsible and well-informed Congress has been mandated by its constituents to save the lives of thousands of kidney disease victims who might otherwise die.

As the national home and spokesman for the kidney cause, the National Kidney Foundation is most concerned with the moral questions that the original article and the editorial position of the New York Times have raised.

First, the article clearly suggests that there is a definitive price tag on human life; but at what point is anyone to say that the cost of saving even one life is too great?

Secondly, kidney disease has become a model for other disease categories in terms of national health care. It is a disease that is manageable: people can be fully rehabilitated to lead useful and productive lives. Unfortunately, these therapies that might keep them alive are too extensive for the average citizen to afford. 6,000 people die each year solely for the lack of funds to purchase treatment.

The National Kidney Foundation believes that the cost of the therapy cannot and must not determine who shall live and who shall die.

Furthermore, our Government now subsidizes transportation systems, private industry, agriculture, defense systems, space exploration, and other national needs. We feel, as did the Congress and the President in passing this important legislation, that the delivery of catastrophic health care is also the responsibility of Government.

Additionally, we cite the millions of dollars now being spent for research to find cures in all disease categories and we question the purpose of this research if, when a life saving treatment for any disease is found, it is too expensive for the individual to purchase.

Dr. Lewis Thomas, Dean of the Yale University School of Medicine, discusses the problem in an article in the "Saturday Review," December 23, 1972. He cites the therapies of dialysis and organ transplantation as examples of stop-gap measures necessary before cures for disease are found.

He says,

"It is characteristic of this kind of technology that it costs an enormous amount of money."

He continues,

"I do not see that anyone has much choice. We are obliged to adopt any new technology that will benefit patients with otherwise untreatable diseases, even when only a very small percentage will be benefited and even when the cost is very high. We cannot, like other industries, withhold a technology from the market place because it costs too much money or benefits too small a percentage of patients."

The National Kidney Foundation agrees with *The New York Times* that government resources must be allocated to improve the quality of life for American people. Eradication of slum conditions, the improvement of education, the improvement of the environment are all important concerns. We must remind *The Times*, however, that the monies allocated in the Social Security Amendment will in no way affect those important programs, for Social Security funds are spent to aid the aged, the infirm, and the disabled. To imply that funding for kidney disease victims is, in effect, robbing Peter to pay Paul is a faulty analysis.

In summation, the National Kidney Foundation reaffirms its praise of the Congress for having the courage to pledge the fruits of medical technology to every American citizen, regardless of his ability to pay for it.

We commend our national leaders for recognizing the high priority that the American people place on human life.

[From the New York Times, Jan. 11, 1973]

PROGRAM TO AID KIDNEY VICTIMS FACES MILLIONS IN EXCESS COSTS

(By Richard D. Lyons)

WASHINGTON, Jan. 10.—Congress and the White House may have to decide whether the lives of 5,000 Americans are worth Federal outlays of $1-billion a year.

This profound ethical question may eventually arise because of a series of events here last year that only recently came to light.

Hundreds of million of dollars a year in excess costs are likely because of an underestimation of long-range outlays for an obscure provision of a law enacted last fall with almost no Congressional opposition or debate.

The alternative to the outlays, which now are estimated to be $1-billion annually in the nineteen-eighties, might well be the deaths each year of as many as 5,000 Americans suffering from acute kidney disease.

At issue are cost estimates for a provision of H.R. 1, the omnibus Social Security bill, which was among the many bills passed on the eve of Congressional adjournment last October.

As signed into law by President Nixon, the provisions, starting in July, will offer partial financial coverage under the Medicare program for the often very high cost of treating some kidney diseases, which strike more than 50,000 Americans yearly. Virtually every American is eligible for coverage, even those under 65.

But the eventual cost was apparently unknown to many of the Congressmen who passed the measure 61 to 9 in the Senate and 305 to 1 in the House.

Original cost estimates ranged from $35-million to $75-million in the first fiscal year of operation. The debate record in both houses shows that the highest estimate was $250-million in the fourth year.

Yet calculations made by Federal experts after passage set first-year costs at $135-

million, rising to $1-billion annually a decade from now. Some experts believe that even these may be conservative.

"We in Congress had no idea that costs would be anywhere near that large," said Representative Paul G. Rogers, Democrat of Florida, who voted for the bill.

A spokesman for Senator Quentin N. Burdick, the North Dakota Democrat who co-sponsored the key amendment that put the kidney coverage in the bill, said "he never would have gone on the amendment had he known that it was going to cost that much."

BENNETT NOT SURPRISED

Senator Wallace F. Bennett, Republican of Utah, the only legislator who spoke out against the kidney provision when it was introduced, said today, "I can't say I'm surprised. Congress is always passing bills without good long-range cost estimates."

But two Democratic co-sponsors of the amendment, Senator Russell B. Long of Louisiana and Lawton Chiles of Florida, said that they had been fully aware of the costs and had backed the plan anyway because, as Mr. Chiles put it, "It's better than having people die needlessly."

The comment points to questions beyond the bare economic issues such as: How does a nation balance its tax money against the lives of its citizens, and, How could Congress possibly repeal a law and by doing so knowingly let people die?

Additionally, the aftershocks of kidney benefit costs may significantly affect future health legislation. The outlays may deter Congressmen from voting similar benefits for sufferers of other costly diseases such as muscular dystrophy and hemophilia. Also, the financial impact could spur enactment of a broad national health insurance program.

A reconstruction of the case is possible through discussions with officials at the Department of Health, Education and Welfare, Congressional aides and Congressmen, plus a series of confidential cost estimate documents.

The key amendment to include the kidney disease provision was introduced on the Senate floor on Sept. 30 by Senator Vance Hartke, Democrat of Indiana. The co-sponsors were Senators Long, Burdick, Chiles, and Robert Dole, Republician of Kansas.

Mr. Dole said at the time, "I have lived quite well for the past 25 years with only one [kindey] . . . and have a rather close-at-hand appreciation of the dangers and burdens of kidney disease and injury."

WHAT LAW PROVIDES

The amendment, now law, extended Medicare's financial benefits to anyone insured under the program, stating:

"Medicare eligibility on the basis of chronic kidney failure shall begin with the third month after the month in which a course of renal dialysis is initiated and would end with the 12th month after the month in which the person has a renal transplant or such course of dialysis is terminated."

In a speech on the floor, Mr. Hartke said:

"Final cost estimates for this vital amendment are now being worked out. Preliminary estimates indicate an annual cost of approximately $250-million at the end of four years, with the first full-year cost at about $75-million."

In response to a question about the financial estimates, a spokesman in Mr. Hartke's office said yesterday that the Senator had obtained the data "from the Bureau of Health Insurance in the Social Security Administration."

Here there is some variance. Gordon Trapnell, director of health insurance studies for the Social Security actuary, insisted yesterday that higher estimates had been arrived at in his office.

David R. McKusick, an aide to Mr. Trapnell, said, "The 1985 cost that we have projected would be well above $1-billion." He added that the higher estimates had been known to members of a Congressional conference committee that met in October to resolve House and Senate versions of H.R. 1.

ESTIMATE IS RAISED

After passage, H.E.W. announced that the first-year cost, that is the fiscal year 1974, would be $125-million. This has since been raised to $135-million.

This prompted Dr. Ronald M. Klar, a special assistant for health policy development in H.E.W., to state in a Nov. 27 memorandum:

"Because of the extensive public and political concern about chronic renal disease, much attention has been devoted to Section 299 I. Included in most of these reports has been the mention of $125-million as the annual cost of treatment benefits. Unfortunately, I am satisfied that this statement is inaccurate and misleading.

"The $125-million figure comes from the Senate Finance Committee report projecting the first year costs. The error is not with the amount itself, but with the probable assumption that the costs would remain at about this level for subsequent years except for price changes. Clearly, this is not the case"

MEMO 18 PAGES LONG

The 18-page memo, which contains 12 pages of data, concluded that the cost in the 10th year would be $954-million.

The difference is partly explained by the accumulation over a period of years of the costs for treatment of persons who otherwise would have died. Thus, Federal outlays would pay not only for treatment of people newly developing acute kidney disease but also for treatment of those whose lives had been prolonged.

According to Dr. Klar, costs of dialysis range from $5,000 to $31,000 a year. Dialysis is the cleansing by machine from the blood of impurities that failing kidneys are unable to remove. If they are not removed, the body in effect poisons itself. A few persons whose kidneys failed 13 years ago are still being kept alive by dialysis treatments.

In discussing the moral and financial questions surrounding the kidney provisions, Scott Flemming, Deputy Assistant Secretary of H.E.W. for health policy development, said, "Our society has to address itself to the question of the devotion of resources to the prolongation of life."

[From the New York Times, Jan. 14, 1973]

MEDICARELESSNESS

Congress, which voted last year to extend Medicare benefits to patients needing renal dialysis or kidney transplants, is learning to its dismay that in roughly a decade this provision may require annual expenditures of a billion dollars. Even so knowledgeable a Congressional specialist on health problems as Representative Paul G. Rogers of Florida has admitted publicly that "we in Congress had no idea that costs would be anywhere near that large."

This belated discovery is reminiscent of an earlier chapter in the growing history of Congressional fumbling with health matters. Much sad experience since the mid-1960's has revealed that the Congress who originally enacted Medicare and Medicaid had little understanding of the huge fiscal and other consequences that would flow from their action. One might have thought that these blunders might have encouraged caution, but now the record shows otherwise.

The point is not that victims of renal disease are unworthy of help, but that Government resources have to be allocated to meeting many needs. If a billion dollars has to go to prolonging the lives of thousands of kidney disease victims, that is a billion dollars that cannot go to eradicating slums, improving education or finding a cure for cancer. In a period when Congress is rightly fighting to protect the constitutional powers against White House usurpation, society has a right to expect that the legislators will understand what they are doing and know the magnitude of the commitment they are making when they pass special interest legislation, whether for kidney disease sufferers or anybody else.

[From the New York Times, Jan. 18, 1973]

KIDNEY FOUNDATION CRITICIZES ARTICLES ON CARE COSTS

(By Lawrence K. Altman)

Officials of the National Kidney Foundation disputed yesterday a recent article and editorial in The New York Times that cited Federal reports that had projected annual costs of $1-billion in the nineteen-eighties to treat 5,000 patients who would otherwise die of terminal kidney diseases.

The officials said that because of the many variables that existed, they could not give a specific figure beyond a Social Security Administration estimate of $252-million in 1977.

"We don't know" what the figure will be, Dr. George E. Schreiner, a kidney expert at Georgetown University Medical School in Washington and one of the foundation representatives, said.

The Times article quoted Congressional leaders of both parties and Administration officials as saying in interviews that the original estimates of the costs of the plan were far too low and that the price tag would rise.

But kidney foundation officials contended in a news conference at the Americana Hotel here that if the cost did reach $1-billion next decade, it would be for more than 5,000 patients each year. The foundation said that "a conservative estimate" would be 13,000 new patients each year, and that over a period of 10 years 130,000 individuals might benefit from medical and surgical treatment of terminal kidney disease.

Further, the officials said, Congress acted not hastily but after careful consideration of expert testimony given over five years when last October it passed an amendment to H.R. 1 providing payments through the Social Security Administration for patients suffering from kidney disease.

Dr. Schreiner said that the experts were "pretty sure" that expenditures for such kidney treatments would not be "all that bankrupting to the economy, because Sweden, Norway, Denmark, Australia, Switzerland and Great Britain have been able to deliver this for all their populations without grossly upsetting their economy."

Calling the data in the article in The Times "misleading" and "threatening" to the cause of future national health care programs," the officials said that they were most concerned about the concept involved because they considered the legislation a model for other disorders that might be covered by catastrophic health insurance.

"The more money that is spent, the more lives that will be saved," Dr. Schreiner said. He added, "That's the focus, not some magic dollar figure."

Even if the costs reached $1-billion, which Dr. Schreiner disputed, he said "it would be a remarkably successful program, because thousands of people would be rehabilitated and returned to their homes and their work."

SPECIAL INTEREST GROUP

Some patients would live to become taxpayers again, Dr. E. Lovell Becker of Cornell University Medical College here said. Dr. Becker is president of the kidney foundation, a privately supported organization.

Dr. Schreiner said "if you're going to define the rehabilitation of dying people that could be put back to work as a special interest, then the kidney foundation is very much a special interest [group.]."

The foundation experts criticized as unsophisticated a report by Dr. Ronald Klar,

a special assistant for health policy development in the Department of Health, Education and Welfare, who projected in an 18-page report that costs of end-stage kidney disease treatments would reach $954 million in a decade.

His report is "very old and doesn't consider" a host of factors that kidney experts hope will reduce the costs of treatments with the artificial kidney machine in the next few years, Dr. Schreiner said.

Success with more kidney transplant operations and technologic advances in the artificial kidney machine are among the factors that Dr. Schreiner said could reduce costs.

He said that the costs of kidney machine or dialysis treatments were not $200,000 per year per person as he interpreted the article in The Times to state. Costs range from $5,000 for home dialysis programs to $30,000 or more for those in some hospitals, he said.

Dr. Schreiner said, "It's not a matter of people spending nothing or something for kidney disease. The costs of dying from uremia [the physiologic condition resulting from terminal kidney failure] in hospitals today are very high."

Reflecting on his 25 years of experience as a kidney expert and the period until about 13 years ago when he and other nephrologists could do nothing but watch a patient die of terminal kidney disease, Dr. Schreiner went on:

"Patients who do not get treatment may have as many as six or eight prolonged hospital admissions during their last year of life. A tremendous amount of money is spent to die in uremia, and it also takes a tremendous use of medical resources."

The panel at the news conference, which also included Dr. Ira Greifer of Albert Einstein College of Medicine, did not dispute charges that excessive profits were made by doctors in some kidney dialysis centers, Dr. Schreiner said.

"We have no argument that Social Security should administer the act correctly. Costs are controllable."

The foundation also criticized a New York Times editorial, "Medicarelessness," published last Sunday that said the billion dollars for kidney therapies was a billion that could not go to eradicating slums, improving education or finding a cure for cancer.

The foundation contended that the funds were from Social Security, a Federal form of insurance, and not from general tax revenues.

"To imply that funding for kidney disease victims is, in effect, robbing Peter to pay Paul is faulty analysis," the foundation said in a prepared statement.

THE 55TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

Mr. BEALL. Mr. President, on January 22, free men around the world again marked the solemn occasion of the 55th anniversary of Ukrainian independence. Unfortunately, this moment could not be publicly celebrated by the 47 million Ukrainians who now live under the yoke of Soviet suppression.

I join with my many colleagues today in tribute to the Ukrainian people whose untiring struggle for freedom and dignity has not waned in the face of tyranny. It is my deep hope that these goals will one day be realized, and that the people of the Ukraine can once again enjoy the fundamental human rights that are the foundation of our world civilization.

IMPLEMENTING LEGISLATION FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in my remarks yesterday on the Genocide Convention I noted that the parties which ratify the treaty agree to punish persons who are guilty of genocide, irrespective of their status. This morning I would like to address the issue of implementing legislation for these and other provisions of the convention.

The International Convention on the Prevention and Punishment of the Crime of Genocide is not self-executing. Article V of this document states clearly that—

> The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III (i.e., Genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, the attempt to commit genocide, and complicity in genocide).

Thus, when the United States ratifies the Genocide Convention, it will also be necessary to pass legislation authorizing the execution of its provisions. Any such legislation must be in full accord with the provisions of the Constitution which guarantees due process under law, protects the individual liberties of the Bill of Rights, and prohibits cruel and unusual punishment.

For this reason we may be assured that ratification of the Genocide will not fulfill the fears of its critics. Our national sovereignty will not be overthrown nor will our Constitution and individudal rights be usurped. Indeed, the Senate Foreign Relations Committee—Ex. Report 92–6—regards Senate approval of the convention as the first step in a two-step procedure. That committee attaches equal importance to the second step: Enactment of the implementing legislation. It is expected that the draft of this legislation will be considered in accordance with the regular legislative procedures and will be helpful in the consideration of the treaty as an indication of how domestic law might be shaped to fulfill our treaty obligations.

The Constitution of the United States clearly authorizes the Congress to enact laws making genocide a crime even if the convention were not approved. This power is granted in article I, section 8, clause 10, of the Constitution:

> The Congress shall have the Power. . . . To Define and Punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations. . . ,

The Genocide Convention cannot and will not supersede or set aside the Constitution of the United States. Implementing legislation for the treaty cannot authorize what the Constitution prohibits, and article V of the convention clearly states that an individual nation's implementation of its provisions is to be made in accordance with the constitution of that nation.

Mr. President, I urge the Senate of the United States to delay no longer in the consideration of this important document of international concern.

PRESIDENT LYNDON B. JOHNSON—IN MEMORIAM

Mr. BIBLE. Mr. President, like all Americans, the people of Nevada were greatly saddened by the death of former President Johnson. Over the years, he visited our State a number of times, and the people of Nevada developed a special affection for him. This high regard is reflected in the tributes paid to President Johnson in the Nevada press following his death, and I ask unanimous consent that the following articles and editorials paying final tribute to him be printed in the RECORD.

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

[From the Nevada State Journal, Jan. 23, 1973]

THE RISE AND FALL OF LYNDON JOHNSON

The wire services reported Monday that former President Lyndon Baines Johnson died of an apparent heart attack, but his death must have been hastened by a broken heart.

Few American presidents have come into office with greater promise, enjoyed greater initial popularity, accomplished more with their Congressional programs, and then fallen so low in popularity.

His standing with the people was ruined by the nation's impossible position in the Vietnam War.

When he ran for election, a year after he had succeeded to the Presidency, he made the mistake of basing his campaign on what was fundamentally a peace program. At least the voters believed this and he rolled up the greatest vote majority of any presidential candidate in U.S. history.

Once returned to office, apparently on the counsel of his military advisers, he made a command decision to expand the military effort in Vietnam.

The consequences record his political downfall. There was no limit to how much military effort could be expended without productive results. A settlement remained as illusive as ever. The gamble failed, and Johnson lost popularity rapidly.

Always keen and analytical in a political situation, he appraised his position objectively, and decided not to seek re-election in 1968. He withdrew in the interests of national unity, showing his immense sense of political responsibility.

The final turn of fate was grossly unfair and unfortunate for him personally for he had been a powerful political figure—one of the all-time great leaders in Congress who was probably as knowledgeable about how government really works as any man ever elected President.

Johnson began his career with a marvelous personal mix for a future politician. He appeared to come from modest circumstances, but from the start he had and used extremely influential connections.

With a background of education in a teachers college where he worked as a janitor to get through school, and then two years of teaching plus his natural Texas style, he was disarmingly homespun.

But Johnson's wife was wealthy, and he himself attracted the top politicians in the nation as his own political sponsors from the start.

House Speaker Sam Rayburn took a liking to him, and got President Roosevelt to appoint him as director of the National Youth Administration for Texas, and to take a continuing interest in his political future.

The administrative job set the stage for Johnson to get into the U.S. House at a young age where he served for 10 years before being elected to the Senate.

Along the way he developed an interesting formula for political success. He faithfully supported the economic interests of his major backers in Texas, which made him appear a strong conservative. But he voted liberal in every area not directly linked to his economic base at home, gaining liberal support for his career from many quarters.

In the Senate Johnson quickly became nationally known to ordinary citizens. He became minority leader, then majority leader, and probably demonstrated more practical legislative ability than any other Senator of this century.

A smart, shrewd, complex man, he was a superb strategist. He ran the Senate with an iron hand arousing resentment from his critics and admiration from his supporters.

As President, he made these skills pay off with Congress. He got through Congress the most sweeping civil rights bill since Reconstruction days.

He also got passed the Medicare-Social Security bill, a voting rights act that enfranchised millions of blacks, and got Social Security benefits brought up to date.

Despite all this he was rejected by a people frustrated over the Vietnam War.

In the end, he must have been a good enough judge of history to realize that ultimately, when the Southeast Asian War is seen in perspective, he will be regarded as one of the better American presidents.

Even so, this may have been little solace to a political leader as sensitive as Lyndon Johnson, who must have died feeling rejected by the people he gave his whole life's effort to serve.

[From the Reno (Nev.) Evening Gazette, Jan. 23, 1973]

HE WILL ENDURE

A person is allowed a mistake or two in almost any occupation.

Not so in the presidency, though, where a wrong judgment is apt to spell disaster for the country and damage a distinguished political career.

So it was with Lyndon Johnson, or so it seems at the present. He had made few errors in his climb to the top, but as President, his luck ran bad.

Dealing with an inherited war, he opted to end it quickly through escalation. It was a point of view strongly advocated at the time by many sound minds both Republican and Democrat.

When it failed and the nation was drawn deep into a long and bitter war, it was the President who bore the blame. That was the end of Johnson in the White House and in politics. He had not bowed out of the office, it is likely that the voters would have chased him out.

Among those who now rage against our role in the war, he is still the villain. Nor, until the conflict is just a distant memory will this be likely to change.

Time, though, will almost certainly treat Johnson more kindly. There were too many accomplishments in his time, too many laudable aspects of the tall, soft-voiced Texan's character to remain obscured by the shadow of his disaster.

There was the phenomenal career in public service—a long and consistent story of skill in the art of politics and well-earned progress through the ranks of party and office to the presidency.

And, there was the fundamental outlook on life, at least as important to his fortunes as were his considerable ambition and ability.

Nearly all who knew Johnson praise him as a man of great personal warmth. His concern for people, particularly the poor and the oppressed, was genuine, they say.

It is reflected in his many speeches and his legislative works promoting the cause of civil rights. And it is apparent in his Great Society program which, even if less than successful, was a sincere effort to improve the lot of the poor, the outcast and the aged.

With the former President's death, his failures will eventually recede into memory as the nation reflects on the man's many strengths.

Most of us will grieve the loss of a great American and a friend to man.

[From the Reno (Nev.) Evening Gazette, Jan. 26, 1973]

THEY SHARED COMMON GOAL

Last spring former President Lyndon Johnson wrote to a Sparks man and advised they both must give up heart attacks.

Howard W. Pickering of Sparks had read about one of Johnson's attacks, then suffered a mild one himself.

He wrote to Johnson in Texas and said his wife, Virginia, told him, "I just wish that President Johnson would get well and stop having heart attacks. When he has one, you have one." Pickering wrote, "Mr. Johnson, please get well and stop having heart attacks. It's killing me."

Johnson replied on May 2.

"Despite the gravity of the content, that letter was so well written that it gave me a chuckle or two . . . and I did appreciate it. I assure you that I will concentrate very hard on taking care of us both.

"There are so many wonderful reasons for living that we just must give up these heart attacks."

Pickering said today he didn't want to make the letter public while Johnson was still alive.

Johnson's funeral was Thursday.

[From the Boulder City (Nev.) News, Jan. 25, 1973]

GARRETT TELLS MEMORIES OF JOHNSON

The death of Lyndon B. Johnson, 36th president of the United States, will be mourned by many Southern Nevadans who will remember his first appearance in Nevada in 1954 at which time he established himself as a man "of the people" in the minds of those who heard him and met him as the principle speaker at the Democratic state convention, according to Elton M. Garrett, of the convention committee.

Johnson, then democratic leader of the Senate, in his speech in the Silver Slipper banquet room, read a lengthy telegram which had been sent to President Dwight Eisenhower by himself and Speaker Sam Rayburn of the House of Representatives, in which they pledged the president there would be no opposition in congress to the president's programs purely for the sake of partisan politics when during the election of senators and congressmen the democrats "took over" control of congress.

"This was a memorable part of the then senator's speech," said Garrett, "and when he was afterward asked for a copy of the telegram he handed it over immediately for reference use in Southern Nevada. He impressed many at that time as being presidential calibre."

The state convention was held in the then new high school gymnasium in Boulder City, climaxed with the dinner in Las Vegas featuring Senator Johnson as the speaker.

[From the Nevada State Journal]

NEVADA LEADERS HAIL JOHNSON AS GREAT MAN

Both Democratic and Republican leaders throughout Nevada hailed former President Johnson as one of the great men of this century and a great American.

Sen. Alan Bible, D-Nev., said Lyndon Johnson was "one of the ablest men I have ever known, and I will cherish the memory of our close friendship which spans more than two decades.

"He was a truly remarkable man who devoted his entire life to serving America," said Bible. "His accomplishments in the Congress and later as President will stand as a lasting tribute to his leadership and vision."

Sen. Howard Cannon, D-Nev., said, "This remarkable man was one of America's most outstanding Presidents and has been a tremendous force in the U.S. Senate for more than a decade. The tragedy of Vietnam overshadowed in public view his many and great accomplishments in the domestic field, but I am convinced history will judge him as having acted with forthrightness and courage in fulfilling our international obligation."

Gov. Mike O'Callaghan, who worked under Johnson in the Job Corp and as western regional director for the office of emergency planning said Johnson's administration "resulted in passage of domestic legislation unequalled in history for its humanitarian concern."

"He was great to work for, as you never had to worry about his personal loyalty," said O'Callaghan.

Former Gov. Paul Laxalt, a Republican who was governor during part of Johnson's administration said he was saddened by the news of the death. He said "history will record that Lyndon Johnson was a very misunderstood President. He was vilified for problems he did not create. As a result he did not receive credit for many social reforms. In my book, he did a good job."

Atty. Gen. Robert List said Johnson will go down as "one of the most effective public servants of this century."

List, a Republican said, "because of his relatively young age, his death comes not only as a shock but also as a reminder of the tremendous physical drain which the responsibilities of the presidency bring."

Former Gov. Grant Sawyer said although foreign problems, particularly Vietnam somewhat clouded the magnitude of the impact of the Johnson presidential years, history will show that Johnson years produced more dynamic and progressive legislation than any other similar period.

"Time will prove Lyndon Johnson as one of the truly great men in the history of this country," Sawyer, now a Las Vegas lawyer said.

Robert Faise, a Las Vegas attorney and former staff assistant to Johnson said "This was a loss for free men everywhere. His life was dedicated to his country and to the ideals of democracy and equality of mankind.

"He was often misunderstood, but I am confident history will vindicate the decisions he made for America and prove him to be one of our greatest men."

Phil Carlin, state Democratic party chairman said the nation has suffered a great loss.

Robert L. McDonald, a prominent Reno attorney and deputy coordinator of Johnson's 1964 election campaign in Nevada, was stunned by word of the former President's death.

"I'm just sick," McDonald said. "I knew him well and he was one of the greatest guys in the world. His death is a great loss to the nation."

McDonald, like the nation, had thought Johnson was recovering well from last year's serious coronary problems. But after an initial shock subsided he praised the Texan in carefully chosen words.

"I think he will be compared with Harry Truman, who was treated so badly by the press for a number of years," McDonald said. "He will go down in history as a great president."

[From the Nevada State Journal]

SWEEPING AWAY—THE COBWEBS

(By Ty Cobb)

Among the Reno people with personal memories of the late President Lyndon B. Johnson is Mrs. Toska Slater, who will be 96 next month.

Mrs. Slater owned a parcel of land near

the University of Nevada, where the interstate freeway was *"some day"* planned to run through. When the rights-of-way for the highway were being obtained, there was pressure on Mrs. Slater to sell her home and adjacent land.

Which she did.

However, she was reluctant to move out of her home of many years. "I wrote a letter to Mr. Johnson, telling him that the home had been sold and the neighbors had moved out—but that there was no sign of any highway being built," recalls Mrs. Slater.

"I got a letter back *so fast!* Mr. Johnson wrote it on White House paper. He told me that it was not a federal matter now, but if there was no sign of the highway being built right away, they'd see what could be done."

The upshot of the exchange of letters: They gave Mrs. Slater a lease on the home she had already sold, and she got to live there six more years.

[From the Las Vegas (Nev.) Sun, Jan. 23, 1973]

NEVADANS SHOCKED BY DEATH: STATE LEADERS PRAISE L. B. J.

The death of former President Lyndon Baines Johnson, Monday came as a shock to political leaders of Southern Nevada. It was a personal loss for men who knew him while he was a senator, a vice president and then the chief executive of our nation.

Johnson's most memorable visit to Las Vegas was a hoopla-filled Oct. 11, 1964, in the middle of one of the hardest-fought presidential elections of the century.

Three thousand Nevadans greeted him at McCarran International Airport; another 9,000 heard his words in the Las Vegas Convention Center.

Uncounted thousands lined the route between hoping for a glimpse of the man hurled into the presidency a year before by the impact of an assassin's bullet.

The President later remembered a warm welcome from Nevada's political leaders, but Nevadans themselves recall a visit from a president who repeatedly broke the ranks of his own Secret Servicemen to increase his contact with the public—physical contact, in the case of two Basic High School majorettes, who he greeted with hugs.

His speech thanked Nevadans for supporting his administration by giving it two Democratic Senators in 1960 while his own home state of Texas had provided him only one ally.

The Las Vegas speech primarily urged Nevadans to reelect Sen. Howard Cannon and promised a continuation of the policies began by the man he suceeded, President John F. Kennedy.

From here he continued to Reno, where he attached to his opponent, Sen. Barry Goldwater of Arizona, a label that was to stick: "A man running against the office of president instead of for it."

Johnson also visited Las Vegas in 1962, while vice president, and participated in a political rally. He was on his way to San Francisco to address the first group of volunteers for the Peace Corps.

He had also visited Las Vegas several times during his years as a Senator.

Both Democratic and Republican leaders hailed President Johnson as one of the great men of this century.

[From the Las Vegas (Nev.) Voice, Jan. 25, 1973]

NATION MOURNS L. B. J. DEATH

Lyndon Baines Johnson, 64—the 36th President of the United States died of an apparent heart attack Monday afternoon.

L.B.J. was the strongest advocate of Civil Rights ever to sit in the White House. As such he DID more to help Blacks, to have a greater part of the American way of life. His fight for the voting rights act, which was enacted by the 89th Congress was but one of many, many fronts he fought. Most of the Civil Rights legislation of the 60's was passed at his insistance. He fought against poverty—ignorance.

He believed that all men were created equal. Yet he knew many were denied equal treatment. He believed that all men have certain unalienable rights, yet many Americans did not enjoy those rights, all because of the color of their skin.

One of the most important statements L.B.J. made was—He pledged—That if and when he had the power to help the plight of the minorities that he would do so—and he did.

L.B.J. was the greatest champion of the right of Black men and women to have all of the things our Constitution promised. The announcement of his death was sad news for Blacks—for they have lost a leader who marshalled all of this expertise in providing a better way of life.

He believed "that the reason most poor people were poor was that they never got a decent break," all because they were born in the wrong part of the country; or that they were born with the wrong color of skin.

The Civil Rights act of 1964, gave to every American the right to go to school, to get a job, to vote and pursue his life unhampered by the barriers of racial discrimination. But for his strong moral convictions and determination we would not have made the gains we have today.

He knew that each generation must fight to secure—renew and enlarge upon the meaning of freedom.

This is his legacy.

EUGENE L. WYMAN

Mr. HUMPHREY. Mr. President, last week a number of Senators expressed tributes to the late Eugene L. Wyman.

At the time, I had not yet obtained a copy of a moving statement written by Mr. Wyman's friend Mr. R. T. Hibbs of Du Quoin, Ill. I ask unanimous consent that that statement be printed in the RECORD.

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

EUGENE L. WYMAN

A giant among us has tragically fallen and "left a lonesome place against the sky." I speak of my beloved friend and great American, Eugene L. Wyman, who, a week ago, at the crescendo of his powers, in tune with life, met the diminuendo of death.

Though stricken while still a young man not yet at the pinnacle of his influence and powers, Gene would have shrugged and said, as often he did, "If God should take me tomorrow, I could only thank Him for the beautiful things and the beautiful people He sent my way." With the poet, he would have said, "Let me go quickly, like a candle-light, snuffed out just in the heyday of its glow. Give me high noon; and then let it be night. Thus would I go." Let us take comfort, then, in knowing that men like Gene would rather wear out than rust away.

Here was an uncommonly common man, who never forgot the commonality of men, reared in a small town of 6,500 persons, Du Quoin, Illinois, reared by foreign-born parents struggling to make a living in the ready-to-wear business and striving to nurture their three sons as men of character and probity, determined somehow to educate them to the limits of their financial ability. And so they did.

In the small high school of 500 students at Du Quoin, Gene attached himself to the coach of speech activities and began an ever-deepening, life-long friendship with him. He distinguished himself as a champion debater and orator, activities which he also pursued at Northwestern University on the scholarship to the School of Speech, which his coach secured for him. There he also involved himself in campus politics, precursory to the titan's stature that was later his in the Democratic Party: as California's Chairman, member of the National Committee, master fund-raiser, adviser, confidant, and oftentimes, king-maker. From Harvard's law school, Gene graduated with honors, went to Beverly Hills and began a saga of success equal to the American Dream. His law offices were as prestigious as they were prodigious.

Achievements by and honors to this great man are too voluminous for detailed recital here. He raised millions of dollars for the Bonds for Israel campaign, for Hebrew University, the Democratic Party, for philanthropical, cultural, and eleemosynary projects. Grateful organizations recognized his work and worth by conferring on him such enviable awards as Bnai Brith's "Mr. and Mrs. American Citizen Award," which went to him and his wife, Roz, as did the impressive Mt. Scopus Award of Jerusalem's Hebrew University this past December, and the naming of its Political Science Building for Roz and him. Honors were myriad and continuous.

But these items are mundane in the great scheme of things, and Gene did not value them beyond their worldly worth. Let us speak rather of the man himself.

Gene Wyman's perspective was not cabined by the narrow confines of political party. His outlook was humanistic and global; his milieu was the nation, the world, the disadvantaged, the deprived, the unfortunate; his arena was whatsoever causes are right, true, and just. For he loved human beings with a compassion which he translated into deeds. To these causes and these people he lent his zeal, his indefatigability, his expertise, and, nearly always, his phenomenal success, for to him failure is a specter to which wise and determined men refuse credence.

But always he took time for his family: his lovely wife Roz and his darling children, Betty, Bobby, and Brad, and for his Beverly Hills home, which was a Mecca for neighbors and friends of every faith, faction, bent, or persuasion, and where often I visited and was treated, not as a guest, but as family.

Whoever sought him for personal advice or comfort or for help in a worthy cause saw him drop whatever he was doing and find ways to bring solace when needed, action where necessary. For Gene's joy in living stemmed from bringing joy to the lives of others, and his deeds for others are a lexicon of the credos professed by all religions. To philanthropy, to the advancement of education, the promotion of culture, the well-being of humanity he dedicated his energies, his remarkable faculty for management, his substance, his considerable talents—and himself, spending himself with prodigality for whoever or whatever needed him. Those who sought and depended on him were legion, of every creed and every rank.

No wonder that at his funeral were the great and the humble, the wealthy and the poor, the eminent and the unknown, Jew and Gentile, young and old, weeping unashamedly and inconsolably over a loss which, childlike, they could neither understand nor accept: the irreparable loss of a kind, gentle, compassionate, considerate, generous friend, surely one of God's elect. Gene explained his affinity for helping people quite simply: "When I was poor and needed help, there were those who helped me. Now, when I have been blessed with the knowledge and the means to help others, I can do no less." The eloquent words of Robert Ingersoll at his brother's grave are a testimonial to men like Gene Wyman: "He added to the sum of human joy," said Ingersoll; "and were everyone to whom he did some loving service to bring a blossom to his grave, he would sleep tonight beneath a wilderness of flowers."

We do not say "farewell" to you, Gene Wyman, for "farewell" means "goodbye." And you can never depart from those of us who know you best, for we will always carry you in our minds and in our hearts. Rarely shall we see your like again.

THE RALPH BUNCHE MEMORIAL—AN INTERNATIONAL HEALTH PROGRAM

Mr. JAVITS. Mr. President, my good friend Ralph J. Bunche, succumbed a year ago to the many ailments he had long suffered. The world's loss is no less than our personal one. It is the wish of all who knew and admired Ralph Bunche and who are familiar with his extraordinary services to humanity to establish a memorial that will keep alive his memory, and the spirit of compassion, service, and international cooperation which were so integral to his life. Such a plan is now underway, and today I should like to familiarize Members of Congress with these plans.

In the last years of his life, Ralph Bunche suffered from a multitude of ailments, among them kidney disease, and for considerable periods he was cared for at the New York Hospital-Cornell Medical Center. Owing to the enormous progress currently being made there, he was accorded considerable relief from the debilitating consequences of this disease. During this time, Dr. Bunche became familiar with the widespread suffering caused by kidney failure as well as with the fact that the treatment facilities and trained personnel throughout the world are grossly insufficient in relation to the need for them.

The Ralph Bunche Memorial is, therefore, designed as a two-pronged endeavor geared toward the direct care of kidney disease patients and the training and utilization of medical manpower. This goal will be achieved by first creating a 21-bed pavilion—named in honor of Ralph Bunche—to serve as an inpatient care facility at the New York Hospital-Cornell Medical Center and also provide intensive care for kidney disease patients. The pavilion will contain a special center to train four patients at a time in the methods of dialyzing themselves at home. This will be augmented by a dialysis facility capable of maintaining 48 outpatients at a time on artificial kidney machines.

The second phase of the program will be the Ralph Bunche international fellowship program, designed to provide training opportunities for qualified doctors, nurses, and paraprofessionals interested in the treatment and research of kidney disease. Fellows from throughout the world will participate in the program. The fellowships for doctors would last 1 to 2 years depending on experience. During the fellowship the doctor will have intensive exposure to chronic kidney disease, acute kidney failure, dialysis treatment, kidney transplantation, plus the opportunity to study the problems of fluid and salts loss that so frequently accompany such widespread infectious diseases as cholera and diarrhea.

The entire project requires $2 million in funding. The memorial committee and friends of Ralph Bunche have raised almost $400,000.

Gifts are being sought from governments and private sources throughout the world for the pavilion and the fellowships. It is my hope and one that is shared by Ralph Bunche's colleagues in the United Nations that this memorial will be truly international, helping people from throughout the world. It will then reflect the great compassion Ralph Bunche had for all mankind.

The New York Hospital-Cornell Medical Center is already a center of international patient referral for kidney diseases and the training going on there has enabled doctors, scientists, and nurses worldwide to acquire the techniques that have been perfected there. The Ralph Bunche Pavilion and the Ralph Bunche fellowships will permit this treatment, research, and training to expand to new levels to treat more patients and train more of the doctors and nurses who are so sorely needed throughout the world.

FOOD ASSISTANCE FOR THE AGED, BLIND, AND DISABLED

Mr. EAGLETON. Mr. President, under provisions of Public Law 92-603, the Social Security Amendments of 1972, on January 1, 1974, those aged, blind, and disabled persons eligible for assistance through the new Supplemental Security Income program will become ineligible for the food stamp and food distribution programs.

Because I believe this to have been a very unfortunate action on the part of the last Congress, on January 9 I introduced a bill to repeal those provisions.

The following Senators have indicated their concern for the welfare of low-income aged, blind, and disabled persons by joining as cosponsors of S. 255: Senators ABOUREZK, BEALL, CLARK, CRANSTON, HATFIELD, HUDDLESTON, HUGHES, INOUYE, JAVITS, MONDALE, MOSS, PASTORE, PELL, RANDOLPH, STEVENS, STEVENSON, TUNNEY, and WILLIAMS.

Mr. President, I have been gratified by the many expressions of interest in S. 255, and I am confident that there will be widespread public support for its enactment.

I have been informed that the National Council of State Public Welfare Administrators, meeting in Washington on January 23 and 24, expressed serious concern about the scheduled termination of food stamp eligibility for participants in the Supplemental Security Income program and unanimously adopted a resolution calling for the restoration of food stamp eligibility for this group of citizens.

On January 22, the General Assembly of the State of Arkansas adopted a concurrent resolution urging support for my bill or similar legislation which would permit aged, blind, and disabled Americans to keep their eligibility under the food stamp and surplus food programs.

Mr. President, I ask unanimous consent that the text of the resolution of the Arkansas General Assembly be printed in the RECORD.

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

H. CON. RES. 5

Urging the Congress to appropriate funds to enable aged, blind and disabled Americans to keep their eligibility under the food stamp and surplus food programs

Whereas, under the revised Federal Welfare and Assistance Programs, approximately 3,300,000 aged, blind and disabled Americans will lose their eligibility under the Food Stamp and Surplus Food Programs; and

Whereas, the Food Stamp Program has enabled our elderly, handicapped, and disabled citizens to maintain a decent diet, and cutbacks in the Food Stamp and Surplus Food Programs would be a severe blow to efforts to provide a decent level of livelihood for these unfortunate citizens; and

Whereas, Senator Thomas Eagleton, Democrat, Missouri, has introduced legislation that would allow the 3,300,000 aged, blind, and disabled Americans to keep their eligibility under the Food Stamp and Surplus Food Programs; and

Whereas, the enactment of this or similar legislation to continue the eligibility of these unfortunate citizens for food stamps is vital to the lives and livelihood of thousands of older and disabled and handicapped citizens of this State, who, in many cases, are totally dependent upon the Food Stamp Program for the maintenance of a minimum diet with standards within basic human needs; now, therefore be it

Resolved by the House of Representatives of the Sixty-ninth General Assembly of the State of Arkansas, the Senate concurring therein:

That the Congress and President of the United States are respectfully urged to support the legislation introduced by Senator Thomas Eagleton, Democrat, Missouri, or similar legislation, that would allow the 3,300,000 aged, blind and disabled Americans to keep their eligibility under the Food Stamp and Surplus Food Programs. Be it further

Resolved That the Arkansas General Assembly hereby commends Senator Thomas Eagleton for his humanitarian concern for the welfare of the millions of aged, blind, and disabled unfortunate Americans. Be it further

Resolved That the Secretary of State shall furnish copies of this Resolution to the President of the United States, to Senator Thomas Eagleton, Democrat, Missouri, and to each member of the Arkansas Congressional Delegation, who are urged to support this, or similar legislation designed to enable the aged, blind and disabled citizens of this State, and of the nation, to continue their eligibility to receive food stamps, or the benefits of Surplus Food Programs.

W. H. BILL THOMPSON.

HEARING PROCEDURES NEED IMPROVEMENT

Mr. HART. Mr. President, last week I introduced Senate Resolution 15. Yesterday, events occurred which illustrate the benefits that might come if Senate Resolution 15, in improved form hopefully, is adopted.

Once again the Committee on Commerce is considering national no-fault insurance standards. Yesterday five insurance company witnesses were scheduled to testify. The committee presided over by the able Senator from Utah (Mr. Moss), opened the hearing at 10:30 a.m. The chairman suggested that the prepared statements of each of these witnesses be printed in the record in full as though given in full; that each sum-

marize his statement within a 10-minute period, following which questions by the committee could be directed to the witnesses. This appeared a sensible arrangement inasmuch as each of the witnesses had been invited to discuss the Camelback meeting, to which each had been a party and from which a common position on no-fault resulted.

I arrived nearly 1 hour late at the hearing. It was the same morning when money resolutions were being considered by the Rules Committee. I had been in attendance at that hearing in order to present several subcommittee budgets for which I was responsible. When I arrived at the Commerce Committee hearing there were present, as I recall, Senator Moss; the distinguished Senator from New Hampshire (Mr. COTTON), the ranking Republican on the committee; the Senator from California (Mr. TUNNEY); and the Senator from Alaska (Mr. STEVENS). The able Senator from Maryland (Mr. BEALL) arrived at the hearing the same time as did I.

The witnesses had concluded at about 12 noon and were being questioned at about 12:30 p.m. The Senators from California, Maryland, and Alaska had been compelled to leave, when the able Senator from New Hampshire criticized the procedure which had been followed, making clear it was not a criticism of the chairman but rather his concern that the Commerce Committee's reputation for fairness might be jeopardized. The Senator from New Hampshire explained he had understood the chairman in opening remarks to have characterized the Camelback meeting as secret or suspect. He felt the witnesses were not able to testify in full, as each had not read all of his prepared statement. He—and he assumed other members of the committee—had wanted to ask questions, he had been in attendance throughout the morning but now was compelled to leave—indeed, had already declined an invitation to join others in the Republican leadership for a White House meeting earlier in the morning. The result, though perhaps not intended, he felt was to muzzle the witnesses and the committee.

The chairman explained the dilemma in which he and the committee found themselves: five witnesses, Senate opening at noon, if the first witness had given in full his prepared statement and then been subjected to committee questioning the likelihood was that we would have as of 12:30 heard only the first witness. Because of the feelings voiced, the chairman then asked that the committee meet at 9 o'clock this morning with the five witnesses to be present and subject to questioning. The Senator from New Hampshire explained that at that hour he was required to meet prior commitments.

Each of the witnesses was from out of town—one, indeed, is based in California. How and when we shall hear them remains unresolved.

Why describe this scene other than to say it is one on which none of us can be satisfied? It probably is no different from that which occurs on most days in one or more committees. It is precisely the dilemma presented in this case which I believe can be eased if the Senate will explore the hearing examiner method, as authorizd in Senate Resolution 15. If that authorization existed today and the Committee on Commerce determined to use it, the five witnesses could have testified in full, questions then could have been addressed by majority and minority staffs, the business scheduled for the day would have been completed, the witnesses would be satisfied they had had full opportunity, and committee members who were interested would have had their questions put by their counsel. Later, and in orderly proceedings, the hearing examiner could have reported in writing the outline of the testimony, committee members could have assembled, listened to the staffs' reactions, been guided to specific pages in the hearing record if issues were unresolved, and a more rational operation would have resulted.

Can we not at least be authorized to make this experiment? The experience with the existing system is not satisfactory as this morning's hearing demonstrated, and is repeated many times. At least permit us to experiment in the hope that a more satisfactory or at least a less unsatisfactory procedure can be developed.

I hope the Rules Committee will consider Senate Resolution 15 and, with such improvements as they may suggest, report it to the Senate, so that we can get on with this modest bit of reform. I ask unanimous consent that Senate Resolution 15 be printed in the RECORD.

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

SENATE RESOLUTION 15

Resolved, That (a) there is hereby established a special committee of the Senate which shall be known as the Special Committee To Investigate Improvement in the Senate Hearing Process (hereinafter referred to as the "committee") consisting of nineteen Members of the Senate to be designated by the President of the Senate, as follows:

(1) one Senator from the majority party who shall serve as chairman;

(2) two Senators who are members of the Committee on Rules and Administration:

(3) two Senators who are members of the Committee on Banking, Housing and Urban Affairs;

(4) two Senators who are members of the Committee on Agriculture and Forestry;

(5) two Senators who are members of the Committee on Commerce;

(6) two Senators who are members of the Committee on Finance;

(7) two Senators who are members of the Committee on Government Operations;

(8) two Senators who are members of the Committee on Interior and Insular Affairs;

(9) two Senators who are members of the Committee on the Judiciary; and

(10) two Senators who are members of the Committee on Labor and Public Welfare.

One Senator appointed from each such committee under clauses (3)–(10) of this subsection shall be a member of the majority party and one shall be a member of the minority party.

(b) Vacancies in the membership of the committee shall not affect the authority of the remaining members to execute the functions of the committee. Vacancies shall be filled in the same manner as original appointments are made.

(c) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the committee may fix a lesser number as a quorum for the purpose of taking testimony. The committee may establish such subcommittee as it deems necessary and appropriate to carry out the purpose of this resolution.

(d) The committee shall keep a complete record of all committee action, including a record of the votes on any committee and shall be kept in the offices of the committee records, data, charts, and files shall be the property of the committee and shall be kept in the office of the committee or such other places as the committee may direct. The committee shall adopt rules of procedure not inconsistent with the rules of the Senate governing standing committees of the Senate.

(e) No legislative measure shall be referred to the committee, and it shall have authority to report any such measure to the Senate.

(f) The committee shall cease to exist on June 30, 1974.

SEC. 2. It shall be the duty of the committee—

(a) to make a full and complete study and investigation of the extent to which the Senate investigative and legislative hearings can be conducted by Senate hearing officers who shall be professional staff members appointed by the Senate in accordance with rules to be adopted by the full Senate based on the report and recommendation of this committee.

(b) to make recommendations with respect to the foregoing, including proposed Senate rules, improvements in the administration of existing rules, laws, regulations, and procedures, and the establishment of guidelines and standards for the conduct of Senate hearings.

(c) on or before January 31, 1974, the committee shall submit to the Senate for reference to the standing committees a final report of its study and investigation, together with its recommendations. The committee may make such interim reports to the standing committees of the Senate prior to such final report as it deems advisable.

SEC. 3. (a) For the purposes of this resolution, the committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; and (7) employ and fix the compensation of such technical, clerical, and other assistants and consultants as it deems advisable, except that the compensation so fixed shall not exceed the compensation prescribed under chapter 51 and subchapter III of chapter 53 of title 5, United States Code, for comparable duties.

(b) The committee may (1) utilize the service, information, and facilities of the General Accounting Office or any department or agency in the executive branch of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the committee determines that such action is necessary and appropriate.

(c) Subpenas may be issued by the committee over the signature of the chairman or any other member designated by him, and may be served by any person designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths to witnesses.

SEC. 4. The expenses of the committee under this resolution, which shall not exceed $250,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

HARRY S TRUMAN

Mr. HOLLINGS. Mr. President, today we mourn the passing of former President Harry S Truman. I believe that when the history of the tumultuous times over which he presided is written, Harry Truman will emerge as one of America's truly great Presidents. The decisions he made have charted the course of our subsequent history, and even today we still feel the imprint of the Truman years.

It is often said that Harry Truman was not well prepared for the duties suddenly thrust upon him on that day in April, 1945, when Franklin Roosevelt died. From the standpoint of Truman's not being included in all the deliberations of the Roosevelt administration, this observation is undoubtedly correct. Indeed, Truman had never even heard of the atomic bomb when he became President. But from the most important standpoint, Harry Truman was singularly well-equipped for the highest office in the land. He brought to his job genuine love of country, rare courage, uncommon decisiveness, and the ability to penetrate directly to the heart of a problem. He knew and felt the aspirations of the people, because he always remained close to the people. He was one of us, and he never forgot it—even in the heady atmosphere of the Presidency. He had unstinting confidence in the American people, and that confidence was returned by the voters in 1948 when Truman was reelected in spite of all the projections of the pollsters and the musings of the pundits.

Harry Truman was also a Democrat—the kind of Democrat we need to emulate today. He believed in opening wide the gates of opportunity, so that each and every American would have the chance to share the abundance of the Nation. He grasped the fundamental concerns of the people to have a job, educate their young, and care for themselves. For those who were unable to care completely for themselves, he urged compassionate care. It was Truman's belief that either we all progress together, or we do not progress at all.

Harry Truman was also a devout disciple of strong national defense. He knew the importance of keeping our powder dry and of maintaining a defense establishment second to none. Nor was he afraid to face down the Soviets, as he did in Iran, Western Europe, and Asia. Truman understood the importance of rebuilding both Germany and Japan, and it is thanks to the wisdom of his foresight that these two countries are now rebuilt, modernized, and members in good standing of the free world, the Marshall plan, the North Atlantic Treaty Organization, and Point Four are enduring legacies of the Truman Presidency.

Today as we look back upon that earlier period, we appreciate more than ever the directness, the candor, and the simplicity of our 33d President. He preferred to be himself and let the cards fall where they may, rather than try to alter his "image" for the benefit of the media. He spoke the truth as he saw it and was always willing to abide by the consequences. "The buck stops here," he often said in accepting the responsibilities and burdens of the Office.

Now he has been taken from us. But we are consoled by the fact that his was a long and productive life in the service of his country. Of Harry Truman it will be written that he was a credit to himself, his family, his State, his country, and to those in every part of the world who cherish the freedom and nobility of man. Harry Truman—the plain-spoken son of the soil—will long be remembered for his distinguished service in preserving the heritage which made America great. We shall not see his likes soon again.

POW'S—A DEBT OF HONOR

Mr. KENNEDY. Mr. President, we all share a sense of relief and joy over the news that within a few days the first American prisoners of war will be returning homeward. The terrible burden that these men and their families have so courageously carried for so long will now thankfully come to an end.

Yet, at the same moment, many of these men will now face a time of difficult beginnings.

After long years of isolation and separation, these men will face in the coming weeks and months many personal and professional hurdles. The warmth and affection of family and friends will support them as they attempt to restore a sense of normalcy to their lives. But the least that we in the Congress can do—and the least that our Government can do—is to show compassion for these men and their families, and to make certain that every step is taken to help them. This is, as James Reston so eloquently phrased it in this morning's New York Times, "a debt of honor" owed by our Nation to these men.

It was for this purpose that I introduced legislation last week (S. 608) to provide certain retirement and pay allowances to our returning prisoners, and recommended a series of administrative actions that would help them return to a new life. Given the urgency and priority I feel we must attach to assisting our repatriated prisoners and their families, I am hopeful that the Armed Services Committee will soon hold hearings and give speedy consideration to this and other legislation for our prisoners of war. For as Mr. Reston writes:

Speeches of gratitude from the President, which are undoubtedly sincere, and homecoming celebrations and parades on Main Street, are not really enough. These prisoners and their families need to be relieved for a time of economic worries to deal with their personal and family anxieties, and a Government that speaks of "peace with honor" owes them a debt of honor, which so far has not been paid.

Mr. President, I commend Mr. Reston's column to the attention of all Senators, and I ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, Feb. 7, 1973]

A DEBT OF HONOR

(By James Reston)

After the return of the prisoners from Vietnam, after all the consoling ceremonies at the White House, and the family reunions and tears on television, the reality for the prisoners coming home at last will begin in private. When they come home from Vietnam, what will they find?

The rest of us will never really understand. Most of us in this big continental country never had a son or relation killed or maimed in Vietnam. America lost over 46,000 dead, but, for most of us, this was a statistic in the papers and not a tragedy in the family or down the street.

For the liberated prisoners and their families, however, it is an intensely personal crisis. On the television it looks like a reunion of lovers and families, but in reality, it is a reunion of strangers.

The prisoners come back different men, usually helpless or rebellious. They have had to surrender to endure. Many of them have literally been "killing time," which means killing their fears, blotting out the present, romanticizing the past and dreaming of a family and an America that are changed beyond their imagining.

In the history of the Republic, the Vietnam war will probably look like a capricious incident, but the United States was already involved in it casually but carefully under President Eisenhower in 1953, twenty years ago, and much more deeply involved under President Kennedy in 1963. In family terms, this is a very long time.

The Census Bureau in Washington tells us that over half the people in the United States are now under 28 years of age. This means that most of our people cannot even remember much before we were involved in Vietnam. And in the lives of the prisoners now coming home, most of whom are under 25, Vietnam dominates everything.

They not only come home different men, but come home to the same but different and older wives, different children, a different country, with different memories and different values. After the reunion and the celebration, trying to sort all this out at home and in the community is bound to be an agony.

The least that can be done for these returning prisoners is to see that they are given good jobs and relieved of the economic anxiety of taking care of the security of their wives and the education of their children. But even this is not enough.

No doubt the communities they return to will see that they are employed, but after a few years it is easy to forget. So while the President and the Congress are now celebrating the courage and endurance of the prisoners, maybe they should agree on a prisoners bill that would ensure the economic security of these families during the coming years, when they will still be struggling with the consequences of Vietnam, long after most people have forgotten.

After all, the prisoners amount to only a few hundreds, and their sacrifice is not as great as the tens of thousands who were killed in the struggle, but they are a symbol of the tragedy of the Vietnam war and the conscience of America, and if the Government is as sympathetic and grateful as it now says, maybe it should not only welcome them home but give them a chance for a secure economic future after the celebrations are over.

If the returning American prisoners are to be dealt with practically, and not merely politically or romantically, legislation must be

introduced now, with the support of the President and the leaders of the Congress, to relieve these families of their economic anxieties.

The Government cannot wipe out their memories. The war has gone on too long and many of them have been in prison for too many years to regain a normal family life or readjust to the values and styles of America that changed so much while they were in prison.

Some of the prisoners will have been strengthened by sacrifice and adversity, and will come back to families ennobled by sorrow and fidelity; but others will be overwhelmed by remorse, and even the austere and faithful families may have trouble with their wayward children.

For a returning prisoner to deal with all this, even in the best of circumstances, to make decisions when for years he had no power of decision, to get to know himself at another time of life, and his wife, and his growing and transformed children—this is a challenge beyond the reach of most men.

Right now, however, when the President and the Congress are conscious of the returning prisoners' problems, there is at least a chance to ease his economic burdens in a time of inflation and unemployment, and give him time to think and sort things out.

Speeches of gratitude from the President, which are undoubtedly sincere, and homecoming celebrations and parades on Main Street, are not really enough. These prisoners and their families need to be relieved for a time of economic worries to deal with their personal and family anxieties, and a Government that speaks of "peace with honor" owes them a debt of honor, which so far has not been paid.

THE PRESS—WATCHDOG UNDER ATTACK

Mr. HUMPHREY. Mr. President, Albert A. Eisele, the respected author and Washington correspondent of the St. Paul Pioneer-Press, has cogently and forcefully reviewed the status of freedom of the press in America.

In a series of six articles just published by the St. Paul Pioneer Press, Mr. Eisele tells us more than it is comfortable to know at one time about the diversity and intensity of the current attacks on our first amendment freedoms.

Freedom of the press in this country is being tried or attacked at the White House, the executive departments, the FCC, the courts, and the Congress.

Moreover, Mr. Eisele also reports increased threats to freedom of the press from the least likely sources—the press itself and the public.

Mr. President, I commend this series of articles to my colleagues and all readers of the RECORD. It is a news report, not an opinion piece or editorial, but it presents a challenge concerned Americans cannot refuse.

I ask unanimous consent that this series of articles from the St. Paul Pioneer Press be printed in the RECORD.

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

THE PRESS—WATCHDOG UNDER ATTACK

(By Albert A. Eisele)

Part I—The Secrecy Syndrome

(EDITOR'S NOTE.—Conflict between governmental power and freedom of the press has existed in varying degrees throughout American history, but seldom if ever has the struggle to define the limits of the government's authority to control information and the public's right to know been as intense as it is at the beginning of Richard Nixon's second term in office. This is the first in a series of articles.)

Since informed public opinion is the most potent of all restrictions upon misgovernment, the suppression or abridgement of the publicity afforded by a free press cannot be regarded otherwise than with a grave concern.

U.S. Supreme Court—Describing the role of the press in 1936

Washington—When Defense Counsel Leonard Boudin made his opening statement to the jury on the first day of the Pentagon Papers trial in Los Angeles earlier this month, he posed a rhetorical question that summed up the paradox of the American system of government.

Asserting that the two defendants in the trial, Daniel Ellsberg and Anthony Russo Jr., had not only a right but a duty as citizens to make public a secret Defense Department study of U.S. involvement in the Vietnam war, Boudin asked:

"To whom did the information belong?"

Then, answering himself, he said: "To the people of the United States."

Boudin's question is one that journalists, judges, politicians and thoughtful citizens have debated from the time of the founding fathers until Richard Nixon—where does the government's authority to control information about its actions end and where does the public's right to that information begin?

Andrew Hamilton helped establish the tradition of a largely unfettered press in America in 1735 when, defending New York newspaper printer John Peter Zenger from a libel charge brought by an irate royal governor, he claimed "a right—the liberty—both of exposing and opposing arbitrary power by speaking and writing truth."

Hamilton's argument helped Zenger successfully defend himself and later found its ultimate expression in the all-encompassing words of the first amendment to the U.S. Constitution, which declared that "Congress shall make no law . . . abridging the freedom of speech, or of the press . . ."

A major test of the meaning of those words is one of several fundamental constitutional issues affecting the public's right to know which will be decided as the Pentagon Papers trial unfolds over the next several months.

Regardless of its outcome, however, that trial is only one of the fronts in the war now being fought in Washington and in dozens of places around the country over the public's right to its government's secrets.

Most of the fighting, or at least the most conspicuous fighting, is between the Nixon administration and the press in the nation's capital, where, in a climate of deepening mutual suspicion, each side is steadily escalating the conflict.

In recent weeks, for instance, the administration has sent shock waves through newsrooms and executive suites of newspapers, radio and television and caused many people to seriously question its commitment to a truly free press with a series of controversial actions that include:

A proposal by the director of the White House office of telecommunications policy that the nation's nearly 600 local commercial television stations be required to eliminate ideological bias in network news programs or face the loss of their broadcasting licenses;

The announced takeover of the public broadcasting service's programing and scheduling functions by the Nixon appointed board of the corporation for public broadcasting after administration criticism of PBS public affairs shows featuring outspoken critics of the administration on the nation's 226 non-commercial television stations;

A series of apparent retributions against the Washington Post for its aggressive coverage of the Watergate bugging scandal, including the exclusive of a Post reporter from White House social functions and the challenge of a Post-owned Florida television station's license renewal by a group headed by a top official of Nixon's reelection campaign in that state;

The almost total lack of presidential contact with the press since his last news conference four months ago, the studied unresponsiveness of White House press spokesmen and the refusal to allow key administration officials to testify before Congress.

The arrest by the FBI of Les Whitten, Jr., an associate of syndicated columnist Jack Anderson, on a charge of illegally receiving documents stolen from the Bureau of Indian Affairs during last November's takeover of that agency by Indian protestors.

But while the Nixon administration, like all of its predecessors, is continuing the historic adversary relationship between press and Government by efforts to increase Governmental secrecy and intimidate television networks, the press for the first time finds itself facing a new adversary, the Judicial branch.

In the past few months, four reporters and editors have been jailed for refusing to reveal their confidential news sources or unpublished materials to courts and grand juries. At least a dozen others are facing fines or jail terms in a spate of cases that grew out of the U.S. Supreme Court's historic ruling of June 19, 1972, which held that Earl Caldwell of the New York Times could not refuse to identify his sources in writings about the militant Black Panthers.

The narrow 5-4 ruling—with all four Nixon-appointed justices joining in the majority opinion by Justice Byron White—tore away much of the protective coverage provided reporters by the first amendment and upset the delicate balance between the vital constitutional guarantees of a free press and a fair trial.

That ruling also opened the floodgates for Judges and Government prosecutors at all levels to subpoena newsmen to testify in court and in grand jury investigations and dried up valuable news sources that were necessary for many of the best reporters to uncover wrong-doing by public officials and private citizens.

Not all the cries of governmental intimidation of the press that arose after the Caldwell decision came from newsmen, however. Lawyers, legislators and even many concerned citizens joined in expressions of deep concern for Erosion of Press Freedom.

Rep. Jerome Waldie, D-Calif., charged that last week's FBI arrest of Whitten as well as other arrests of newsmen are part of a "deliberate, systematic and conscious campaign of harassment and intimidation against any in the news media who dare to print the truth when truth proves uncomfortable or embarrassing to the White House. . ."

"We are in the throes of attempted massive suppression of news media and the attempted decimation of viable and aggressive journalism," Melvin Block, President of the 3,500-member New York State trial lawyers association, said last month as the group pledged to help defend freedom of the press from what it called a threat by the Nixon Administration.

"Not in a long time has the first amendment come under such a major attack," he declared.

Sen. Alan Cranston, D-Calif., a former newsman himself and a leader in the fight to pass legislation in the new 93d Congress to give reporters absolute protection at the State and Federal levels from being forced to disclose their sources of unpublished materials, stressed the importance of the "watchdog" function of the press.

"The basic purpose (of the legislation) is to protect not the press, but the people,"

Cranston declared. "The press must be kept free to continue to expose corruption and lawlessness in high places, in and out of Government."

Many reporters who are quick to accuse the Nixon administration of "suppressing" the news media have forgotten how previous Presidents sought to manage the news.

They fail to recall, for instance, how John Kennedy—a great favorite of newsmen—manipulated the press during the 1962 Cuban missile crisis and how one of his top Pentagon officials, Assistant Secretary of Defense Arthur Sylvester, asserted the Government's right to lie during that crisis; how FBI agents made nocturnal checks on several newsmen concerning their coverage of the 1962 steel price battle, and how Lyndon Johnson tried to persuade key newsmen to "play ball" with him in return for privileged Presidential treatment.

Nevertheless, there is no denying the fact that the historic antipathy between Nixon and the press that was nourished by the harsh attacks on the press by Vice-President Spiro Agnew and other Nixon aides in the past four years is not likely to diminish during Nixon's second term.

"President Nixon really feels that he's been under systematic attack by the press," says James McCartney, Washington correspondent for the Knight newspapers and chairman of the National Press Club's professional relations Committee.

"As of now, there is no evidence of a spirit of reconciliation with the press or anyone else he considers his antagonists or adversaries. Consequently, I assume we can expect a continuation of the same thing in the next few years, maybe somewhat more intensified, although it may be moderated by the end of the Vietnam war."

"The press has never been on the defensive like it is now," says Jack Landau, who covers the U.S. Supreme Court for the Newhouse newspapers and is a trustee of the reporters committee for freedom of the press, which recently sponsored an independent study of reporters' legal rights and obligations.

Landau is concerned that neither most newsmen nor most publishing and broadcasting executives are aware of the widening dimensions of what he sees as a nationwide censorship trend.

Such a trend is evident, Landau and many colleagues feel, in the increasing number of cases involving disclosure of newsmen's sources, but particularly in the Pentagon papers trial, which represents the Government's first attempt to imprison someone for "leaking" information to the press.

A conviction would set legal precedents that would give the Government powerful new authority to conceal embarrassing facts, Landau notes.

Pointing out that one of the indictments against the two defendants in the case is for theft of Government property, he says the Government is claiming that it owns all "Government reports and Government-compiled facts about the operations of Government agencies—not just 'national security' facts, but reports on health, education, housing, law enforcement, etc."

Landau calls this "a frightening and completely novel Justice Department argument" and says it "directly contradicts the American tradition that information about Government operations belongs to the public."

Whatever the outcome of the Pentagon papers trial, however, or of pending "newsmen's shield" legislation in Congress and many States, as well as any future court decisions that might further define the first amendment rights of the press, few newsmen view the next four years with optimism.

"There's never been a frontal assault on the press as we have now," declares William Small, a CBS news executive in Washington and chairman of the Joint Media Committee which is lobbying for an effective shield law.

"There is an atmosphere of paranoid feeling about news people in this administration."

II.—THE BUREAUCRACY AGAINST THE PRESS

"A democracy without a free and truthful flow of information from government to its people is nothing more than an elected dictatorship. We can never permit this to happen in America."—Rep. John Moss, D-Calif., commenting on a congressional study of secrecy in government: September, 1972.

WASHINGTON.—Shortly after the story of the 1968 My Lai massacre broke in November, 1969, several editors and reporters of the Daily Oklahoman newspaper of Oklahoma City met to discuss how they might clear up some of the confusion and conflicting evidence surrounding the story.

Jack Taylor, a blocky, bespectacled investigative reporter who was first exposed to journalism and military thinking while writing for army publications when he was stationed in the Canal Zone in the early 1960's, offered a suggestion.

Recalling that each army unit is required to keep a record of daily activities—the so-called "morning reports" Taylor suggested that the newspaper ask the army for the morning reports of the principal unit involved at My Lai.

On December 1, 1969, the Daily Oklahoman formally requested the morning reports of Company C, 1st battalion, 20th infantry. One of that unit's three platoons was commanded by Lt. William Calley Jr., who was later court martialed and convicted of 22 murders at My Lai.

The request was promptly denied on the grounds that its release would involve names of potential witnesses in possible disciplinary actions in the case even though most of the witnsses had already been identified in newspaper accounts and many had submitted to news interviews.

The turndown of its request marked the beginning of a 3-year battle by the Daily Oklahoman with the Pentagon and the Nixon administration over public access to pertinent information about the My Lai incident. The paper's efforts ultimately helped change the Army's censorship policies, shed important new light on the incident and laid the groundwork for an appeal of Calley's conviction.

And even though Taylor and his newspaper still are trying unsuccessfully to get the Army to release additional My Lai-related documents their efforts provide a classic case study of the difficulties involved in prying loose public records from an uncooperative bureaucracy. They also illustrate how the bureaucracy has been able to hamper the five-year-old federal right-to-know law.

When former President Johnson signed the Freedom of Information Act on July 4, 1967, he declared that it struck a proper balance between government secrecy and the public's right to know.

But after a year-long study of the implementation of the law, which provides that any citizen may see a government document in the files but lists nine specific categories of material that are exempt, the House Government Operations Committee found last year that the efficient operation of the law "has been hindered by five years of foot-dragging by the federal bureaucracy."

In its lengthy report, the committee—which spearheaded an 11-year effort to pass the law—pointed out that government secrecy is not a partisan issue but that "each new administration develops its own special secrecy techniques which, as time passes, become more and more sophisticated."

The study noted that some government agencies have ignored anti-secrecy legislation and still rely on a 1789 "house-keeping" law that gave federal agencies the authority to regulate their business and to set up filing systems and keep records.

Most of the federal bureaucracy, the study found, was so set in its ways that it never "got the message" of the Freedom of Information Act, which was that all government information was to be made available to the American people with no questions asked—except for information concerning vital defense and state secrets, personal privacy, trade secrets and the like.

The study pinpointed the major reasons why the freedom of information law has not worked as well as expected—including excessive delays in responding to requests for information; unreasonable charges for searching for and copying documents or records; the cost and time involved in taking uncooperative agencies to court; a negative attitude toward "open access" on the part of Federal officials; relatively little utilization of the act by the news media and misuse and confused interpretation of the exemptions in the act.

"If you want to get any information out of the Government, you have to be prepared for a very long wait and an arduous fight. You have to know exactly what you're looking for and you practically have to be a lawyer to make your point," says Taylor, who has learned the hard way how the bureaucracy can thwart the FOI law.

Taylor points out that the Army and Defense Department charged him $249.40 for a partial list of the documents he asked for, including $5 an hour for research. It is believed to be the first time such fees have been assessed by the Army.

When the Pentagon asked for another $500 for additional documents he was seeking, he told them to forget about it and said he would obtain the information from other sources, which he did.

Many of Taylor's battles with the Defense Department have a kafkaesque flavor. Some agencies refused him documents because they were classified, but other agencies gave him the same documents which they had not classified. Some Pentagon offices have charged him for free material that other offices have not charged him for.

When he was charged for the morning reports, Taylor appealed to the Secretary of the Army, citing army regulations and a Defense Department directive that exempts the news media from such charges. The appeal was turned down and another appeal is still pending.

"The big problem is that you have to study the regulations and the law yourself and make a case for each thing you ask for," says Taylor, who is awaiting action by the Pentagon on approximately 50 formal requests for information. "They put the burden on you to prove you need the information, but that's not the way the law reads. The burden is on the government to prove you don't need it."

Taylor, who stresses that he has followed official channels and used only legal means in his quest for information on the My Lai incident, is perplexed by the attitude of the government bureaucrats he deals with.

"It seems to me that instead of trying to honestly follow the law and the policies established by Congress and by President Nixon, they spend their time trying to figure out ways to thwart the law."

Unfortunately for Taylor and others like him who have been fighting the public's battle for the right to know, the U.S. Supreme Court last week ruled that the freedom of information law safeguards the government's right to classify documents and does not increase citizens rights to access of classified material.

In a 5-to-3 decision, the court reversed a lower court ruling that Rep. Patsy Mink, D-Hawaii, and 32 other members of Congress could see some "secret" and "top secret" papers detailing debates by government experts over the wisdom of conducting the

controversial 1971 underground nuclear tests on Alaska's Amchitka Island.

The congressional group had argued that the government should not be able to make blanket classifications of documents containing non-sensitive material, including confidential advice to President Nixon by aides, but the high court ruled that the secrecy claims were justified under loopholes of the FOI Act.

In a concurring opinion for the majority, Justice Potter Stewart blamed Congress for not removing the loopholes. "It has built into the law an exemption that provides no means to question an executive decision to stamp a document secret, however cynical, myopic or even corrupt that decision might have been," he declared.

The 1972 House study of the FOI law showed that Government bureaucrats are making good use of the law's loopholes. It uncovered dozens of abuses, some of which sound like they are straining out of "Catch-22."

The Department of Agriculture refused the request of Ralph Nader's center for the study of responsive law for research materials about pesticide safety because the department said—correctly—that the records being sought were not clearly identified.

But when the center asked for the indexes the department maintained so that specific files could be identified, it was refused on the grounds that the indexes were inter-agency memoranda and excluded from the law.

The center finally took the case to court and won access to the files two years after its initial request, but only after the department contended that it would cost $91,840 to prepare the files for public viewing.

In another such case, the Internal Revenue Service went a step further than simple noncompliance when it refused a Seattle couple's request for most of the statistical information the couple sought showing how the IRS carries out tax collecting duties, and then prepared a dossier on the couple.

The House anti-secrecy study recommended numerous changes in the law to correct the deficiences it found, and a Government Operations Subcommittee headed by Rep. William Moorhead, D-Pa., has scheduled legislative hearings on the proposed changes this spring.

But the committee's 1972 study spelled out the only sure-fire method of guaranteeing that the right-to-know philosophy of the freedom of information law will be put into practice by the Government's administrators and huge corps of public information specialists. It declared:

"No changes in law and no directives from agency heads will necessarily convince any secrecy-minded bureaucrat that public records are public property. Only day-to-day watchfulness by the Congress and the administration leaders can guarantee the freedom of Government information which is the keystone of a democratic society."

PART III—RICHARD NIXON VERSUS THE PRESS

"The day when the network commentators and even gentlemen from the New York Times enjoyed a form of diplomatic immunity from comment and criticism of what they said—that day is over . . ."—Vice President Spiro Agnew in a 1969 speech.

WASHINGTON.—One of Richard Nixon's first acts as President in January, 1969, was to order the removal of two wire service teletype machines and a three-screen television console from the oval office in the White House.

The news tickers and television sets had been placed there by his predecessor, Lyndon Johnson, for the purpose of keeping a close presidential watch on what the news media were reporting about his administration.

Nixon, however, whose presidential campaign had been masterfully orchestrated to enable him to bypass reporters and commentators as much as possible and go directly to the public through paid television and radio broadcasts, had no desire to emulate Johnson.

Nixon's removal of the news tickers and television sets from his office were symbolic of his unhappy relationship with the press during more than a quarter-century in public life. The relationship had been characterized by bitterness, and mutual suspicion and was capped by his famous "you won't have Nixon to kick around anymore" press conference following his defeat in the 1962 California gubernatorial election.

But now he was in a position to do some kicking himself, and after a brief honeymoon with the press during his first months in office, he did. The Nixon administration's first major offensive against the news media came in the fall of 1969 after widespread antiwar protests greeted the Nov. 3 speech in which he declared his determination to hold the line in Vietnam while seeking a negotiated settlement.

The principal weapon in Nixon's arsenal was Vice-President Spiro Agnew, who characterized the President's critics in a series of speeches as an "effete corps of impudent snobs" and lambasted the "instant analysis" of television commentators critical of Nixon's policies.

Agnew's alliterative broadsides not only made him a household word but touched off a steadily-escalating battle between the administration and the press that has continued unabated into Nixon's second term—except for a moratorium during the 1972 presidential campaign when Nixon went into virtual seclusion while the press feasted on the frequent mistakes of his Democratic rival, Sen. George McGovern, D-S.D.

However, when McGovern's popularity was still climbing late last spring, the administration launched a new series of well-coordinated attacks on the press. Some of those attacks recently were catalogued by Courtney Sheldon, Washington bureau chief of the Christian Science Monitor and chairman of the Associated Press managing editors' Washington committee. They included:

—A speech in April by Assistant Attorney General Patrick Gray—named Acting Director of the FBI a few days later—charging that newspaper and television reporting is "often inaccurate, biased and grossly unfair" as well as slanted against the administration;

—A television interview in May by Presidential Assistant Patrick Buchanan, the chief White House news media watcher warning that if what he called biased reporting of the Vietnam war and other issues continues, ". . . you're going to find something done in the areas of anti-trust type action."

—A speech in May by White House Congressional Liaison Chief Clark MacGregor—later named director of Nixon's reelection campaign—charging that "advocacy journalism" could jeopardize the upcoming Moscow summit meeting;

—A public statement in May by Ken Clawson, Deputy Director of Communications for the administration, charging the New York Times with "being a conduit of enemy propaganda to the American people" for some of its Vietnam war coverage;

A public charge in May by J. S. Robertson, a Nixon appointee to the Federal Reserve System's board of directors, that the news media are "being used to undermine the credibility of everyone who represents authority."

A speech by Vice-President Agnew in June expressing his feeling that " there is a bit of opinion creeping in" the reporting of the wire services, national news magazines and broadcast networks.

Although the administration called a temporary respite in its feud with the press during the campaign, it ended soon after the election. The first victim was the Washington Post, whose aggressive coverage of the Watergate bugging scandal and Russian wheat deal and often savage and anti-administration editorials and columns caused great anger at 1600 Pennsylvania Avenue.

Not too many newsmen were surprised, therefore, when Nixon gave his first post-election interview to the Post's rival, the Washington Star-News, and when other top Republicans followed suit by leaking exclusive stories to the Star-News.

They were surprised, however, when Dorothy McCardle, a veteran Post reporter of the Capital's Social Scene, was barred from covering several White House social functions during the holiday season, and when it was learned that the license renewal of a Post-owned television station in Jacksonville, Fla., was being challenged by a group headed by the finance director of Nixon's reelection campaign in Florida.

Nixon's feuds with newsmen are hardly unprecedented in the historic adversary relationship between American presidents and the press, but the nature of that relationship appears to have significantly changed in the Nixon years.

"What is unusual about the Nixon Administration's particularly strained relationships with the press is the high intensity and sustained nature of its attacks on the media," Julius Duscha, director of the nonpartisan Washington journalism center, observed recently.

Indeed, if there is one single element that seems to set the Nixon Administration apart from its predecessors in trying to manipulate the press and control Government information, it is its overriding concern with both commercial and non-commercial television.

The strongest evidence to date to support the contention by Bill Monroe, Washington editor of the NBC-TV "Today" program, that the administration is trying to "maximize governmental pressure and minimize media independence" was offered on Dec. 18.

On that day, Clay Whitehead, director of the White House office of telecommunications policy, announced in a speech in Indianapolis that the administration will propose tough new legislation this year to hold the Nation's almost 600 local television stations accountable, at the risk of losing their licenses, for the content of all network material they broadcast.

Condemning what he called "ideological plugola" in network news reporting, Whitehead warned that "station managers and network officials who fail to act to correct imbalance or consistent bias in the networks—or who acquiesce by silence—can only be considered willing participants, to be held fully accountable . . . at license renewal time."

Whitehead's speech was interpreted by many in the broadcasting industry as the administration's boldest attempt yet to intimidate local television stations, which devote 61 per cent of their air time to network programs.

By itself, the Whitehead speech was extremely unsettling to broadcasting officials and raised new fears that the administration soon will move to force newspaper owners to divest themselves of radio and television properties in the same areas in which their newspapers are published.

But it took an even more ominous tone when a similar offensive was launched against the Nation's approximately 230 noncommercial (public) television stations a short time later.

That came on Jan. 11, when Henry Loomis, the Nixon-appointed president of the publicly-financed Corporation for Public Broadcasting (CPB), announced that the CPB will assume control of the programming and scheduling functions of the Public Broadcasting Service (PBS). The action, which

came after Loomis and other Nixon supporters criticized PBS news shows and commentators for unfriendly views toward the administration, raised fears that what many people felt was becoming the Nation's "fourth network" was instead slated to become the "Nixon network".

"When you have all the power in the CPB's hands," warns PBS President Hartford Gunn, Jr., "all the necessary conditions are present for the corporation to become a propaganda agency."

There's little doubt that the administration is deeply aware of the tremendous potential power of the television networks to influence the public. In fact, Whitehead's speech echoed criticisms by White House aides such as Buchanan who complained recently that the networks have "got control of essentially three giant complexes which enable individuals to send comment at an instant's notice into 100 million homes."

And Charles Colson, one of the President's closest political advisers, was even more explicit last week when he sharply criticized the television networks and predicted that they "are going to be broken up one way or another in the next four or five years" because of "new technology in communications."

In a public television interview, Colson said, "The networks are constantly talking about wanting unrestricted first amendment rights. They want the same right to say or do whatever they want without restriction. But at the same time, they really are using public airways as a public trustee."

Many newsmen are convinced that the recent moves against the television industry are part of an overall strategy aimed at suppressing criticism of administration policies, particularly since they came at about the same time as Nixon's controversial decision to resume heavy bombing of North Vietnam.

Herbert Klein, Director of the White House Office of Communications, vigorously denies this, pointing out that Whitehead's speech was "an individual speech which neither I nor the President had any part in" preparing. Klein also said he is not "in full agreement" with the speech and asserted that the legislation proposed by Whitehead is less alarming than press reports have made it sound.

Nevertheless, Klein's denial will provide little comfort to many veteran newsmen in Washington who, while they credit the former San Diego newspaper editor with an honest, energetic effort to present the administration's case, see him as the symbol of the administration's schizophrenic attitude toward the press.

On the one hand, while Klein has made more information on the administration available—although often through an "end-run" around the Washington Press Corps directly to editors and publishers—a virulent hostility against the press exists among other administration officials such as Presidential Press Secretary Ron Ziegler.

"Generally speaking, this is the worst it's been in the 25-plus years I've been here," the Washington bureau chief of an influential business newspaper friendly to the administration said last week.

"I think there is now a greater hostility toward the press and a greater lack of understanding and appreciation of the role of the press in informing the public, in reflecting the attitude of the administration on issues, and in informing the bureaucracy as to what the White House had in mind than ever before," he added.

James McCartney, a Washington correspondent for the Knight newspapers and chairman of the National Press Club's professional relations committee which is studying the administration-press relationship, agrees.

Citing a recent interview with the President by Saul Peit of the Associated Press in which Nixon recalled "four years of the most devastating attacks on TV, in much of the media, in editorials and columns" on him, McCartney said it is clear that Nixon still feels he is under systematic siege by the press:

"What we're seeing now is the rather aggressive attacks against the press is actually a reflection of the President's own personal feelings and predilections as they have been interpreted by those on the White House staff and closest to him.

"This filters down as is inevitable in Washington and has affected the entire Government. I think that by the standards of Washington and of our business, the President has had a lot fairer press than a lot of politicians, but the fundamental and absolute difference between us is that the attitude of the White House, as reflected by its official press spokesman, is that the role of the press is to be a transmission belt for self-serving political information. That is not the role of the press."

Even less critical veteran Washington reporters such as Howard K. Smith, the ABC senior anchorman and commentator whom the White House regards as generally friendly to Nixon, seriously wonders if there is a link between the administration's latest actions and the recent rash of court actions against reporters who refuse to disclose confidenial sources.

"I hope it is not so," says Smith, "but it begins to look like a general assault on reporters."

PART IV—THE COURTS AGAINST THE PRESS

"Inch by inch, century by century, freedom of the press has pushed its way up into the sunlight, in spite of occasional killing frosts as at present"—Professor Irving Brant of the University of Oregon: November 27, 1972.

WASHINGTON.—After removing the cornerstone of source confidentiality from the temple of journalism with its landmark "Caldwell" decision of June 29, 1972, the U.S. Supreme Court offered a blueprint for building a new edifice.

Acting as it often does when confronted with a particularly difficult constitutional issue, the court suggested that the problem of defining and protecting journalist's privilege could best be solved by Congress—which it said is free "to determine whether a statutory newsman's privilege is necessary and desirable"—and by the state legislatures.

Next week, the 93d Congress will accept the court's suggestion and begin hearings on proposed legislation to protect the confidential status of a reporter's sources and non-published information.

The first hearings will be held by a House Judiciary Subcommittee starting on Monday. Similar hearings by a Senate Judiciary Subcommittee are scheduled to begin Feb. 20 and together they will help determine how sturdy a structure American journalists will live and work in during the years ahead.

That structure has been a shaky one in the seven months since the Caldwell decision, which held that the first amendment guarantees of freedom of the press does not give newsmen the right to refuse to appear before grand juries to answer questions relevant to a criminal investigation or to withhold confidential sources and information.

That decision, coming just a year after the Pentagon Papers case in which two newspapers for the first time in American history were prevented by court order from printing specific articles, have sent a series of sharp tremors through the Nation's news media.

Upsetting the delicate balance that had long existed between the reporter's first amendment protection and the State's legitimate concern for detecting and prosecuting crime, the Caldwell decision quickly opened the floodgates to a relative deluge of confrontations between the government and the news media.

In the past few months, four reporters and editors have been jailed for refusing to disclose confidential news sources to courts and Grand Juries, including one, William Farr of the Los Angeles Times, who had been in jail for more than two months before Justice William Douglas ordered his temporary release on Jan. 11. However, Farr still faces the possibility of being jailed indefinitely.

In addition, more than a dozen other newsmen across the country are involved in litigation and face possible jail terms because of their reporting activities, while many other reporters are finding that confidential news sources refuse to talk with them, even if newsmen promise to go to jail rather than identifying them.

The legal implications of the Caldwell, Farr and similar cases spell trouble for the news media, most newsmen and many constitutional law experts agree.

Earl Klein, attorney for the Los Angeles Chapter of the National Journalism Fraternity, Sigma Delta Chi, is one of those who believes that the jailing of Farr for violating a "Gag Rule" imposed by a judge in the grisly Manson murder trial, set a dangerous precedent.

Although that decision is only valid in California, Klein believes government prosecutors and judges in other states may use the Farr case to hamstring the news media. Pointing out that other states tend to look to California for guidance because of its outstanding judiciary, Klein recently told the Southern California Journalism Review that "a decision like this is going to get a lot of play in law journals and reviews."

Robert Warren, who prepared an amicus brief in the Farr case for the Los Angeles Times, warned in the same publication that most reporters don't realize that the bell that tolled for Farr was tolling for them as well:

"The net upshot of this case is that the court by punishment of news persons, if necessary, achieves total control over the publication of news with respect to crime or criminal proceedings at least after it becomes subject to court proceedings."

But the Farr case is only one facet of a broad array of legal tests involving journalists as the courts group toward a new definition of the first amendment guarantee of freedom of the press.

Jack Landau, a Supreme Court reporter for the Newhouse newspapers and a trustee of the Reporters' Committee on Freedom of the Press, recently compiled a sampling of cases illustrating the range of current censorship efforts.

Generally, the conflict between the press and the courts falls into four categories of cases, including disobeying invalid prior restraint orders by the courts; reporting public criminal trials and related events; refusing to disclose the content and source of confidential information (the Caldwell and Farr cases are leading examples); and refusing to disclose confidential sources in libel cases.

In addition, reporters from various underground newspapers have undergone harassment by law enforcement officials in recent months in the form of arrests, police raids and grand jury investigations.

Landau singles out a case involving two Baton Rouge, La., reporters who were held in contempt of a Federal district court order banning publication of stories about a public rights trial as the "most pernicious" of all the pending censorship cases.

He notes that while a U.S. court of appeals ruled that the district court contempt order against the reporters was invalid because it violated the first amendment, it also ruled

that the illegal order had to be obeyed and appealed rather than ignored because a temporary delay in publishing news is not an "irreparable" injury to the rights of the press.

Asserting that the ruling "authorizes a blank check to the judiciary for prior restraint of the press," Landau warns, "if, as this case suggests, the "integrity" of the courts now stands higher than the powers granted to the media by the first amendment, the press will become the hand-maiden of every corrupt or stupid judge in the Nation."

With all these cases providing an emotional backdrop, the congressional hearings that begin next week will study two basic questions—whether newsmen should be legally protected from being forced to disclose confidential sources, and, if so, how broad that protection should be.

Rep. Robert Kastenmeier, D-Wis., described the task of his House Judiciary Subcommittee when he said last week that it will examine "the question of whether or not a newsman's privilege should be created, and if it is created, whether or not it should be qualified or absolute, and applicable to State as well as Federal proceedings."

Kastenmeier, whose subcommittee held five days of hearings on newsmen's "shield" bill this year, declines to predict what kind of a bill it will be or what Congress will do with it.

But he feels that the various jailings and threatened jailings of newsmen have dramatized the need for a shield law and made its passage more urgent than at the time of his previous hearings.

"At one time we thought the probability was that it would have been better left untouched (by Congress)," he said recently. "But now it does appear that there are some very compelling reasons why we should put out a law. The courts have literally invited us to do it."

Some 21 shield bills have been introduced in the House by more than 55 Members. They reflect the heated debate among newsmen and non-newsmen alike over what kind of bill if any should be passed.

On the one end of the spectrum is the Nixon administration, which opposes any kind of shield law. It feels an absolute privilege is unwarranted and a qualified privilege is unnecessary because of the guidelines issued in 1970 by then-Attorney General John Mitchell making it more difficult for Federal prosecutors to subpoena newsmen.

President Nixon made his position clear in November in a letter to Robert Fichenberg, editor of the Albany, N.Y., Knickerbocker News and chairman of the American Society of Newspaper Editors' Freedom of Information Committee.

Nixon said that while he "would not oppose" a qualified privilege bill, he believes the system established by the attorney general's guidelines "is preferable to Federal legislation at this time."

He also said it would be "advantageous to all concerned" if shield laws were enacted in the 32 States that do not have any such laws.

Surprisingly, some newsmen line up with Nixon in opposing any law at all because they feel that the first amendment protection is absolute and that any law would either fall short or would fail to win passage and invite even more judges and prosecutors to open up on the press.

At the other end of the spectrum are those who want some kind of law, including Kastenmeier. James Cornwell, president of the National Newspaper Association, told Kastenmeier's subcommittee last fall that the Justice Department guidelines "provide no restraint whatsoever" against subpoenas issued by Congress or Federal bodies.

In addition, Cornwell pointed out, "the guidelines could be changed or even repealed entirely depending on the mood of the attorney general."

Another major disagreement is whether a shield law should provide an absolute or qualified privilege against forced disclosure by newsmen. The American Society of Newspaper Editors, for instance, favors an absolute privilege while Sigma Delta Chi wants a qualified privilege.

Those favoring the absolute privilege cite Justice William Douglas' warning that "sooner or later, any text which provides less than blanket protection . . . will be twisted and relaxed so as to provide virtually no protection at all."

Those favoring a qualified privilege argue that there is no reason why reporters should not be compelled to testify in criminal cases if his information is vital and can be obtained nowhere else.

Even the New York Times' Anthony Lewis, an expert court observer who is extremely critical of the Caldwell ruling, recently expressed concern "about the idea of reading into the constitution an absolute privilege for journalists against testifying in court."

Finally, there is the question of whether a shield law should apply to both the Federal Government and the states, and again, there are strong arguments on both sides of the question.

While the initial focus of attention on shield legislation will be on the Kastenmeier hearings, the Senate Judiciary Constitutional Rights Subcommittee headed by Sam Ervin, D-N.C., is scheduled to begin hearings on Feb. 20 on a half-dozen similar bills introduced in the Senate.

As in the House, the Senate bills run the gamut from absolute to qualified privilege and from Federal and State applicability to Federal only.

The more limited approach is probably best represented in a bill sponsored by Sen. Lowell Weicker, R-Conn. His bill would apply only to Federal and not state proceedings, although Weicker has offered "his bill as a a "model" for State legislatures, many of whom are creating or upgrading state shield laws.

Weicker's bill would prohibit any Federal grand jury, executive agency or legislative body from forcing newsmen to disclose confidential sources or data.

But a Federal judge could order disclosure in cases involving murder, forcible rape, aggravated assault, kidnapping, airline hijacking or a national security statute if it could be proved that the source had vital knowledge about the case that was not available anywhere else.

Most newsmen and news organizations are leery of such loopholes and are expected to support a bill proposed by Sen. Alan Cranston, D-Calif., a former newsman. His bill would establish an unqualified privilege of confidentiality applying to both the Federal government and the States.

However, the passage of a newsman's privilege law by Congress is certain to face many obstacles, and the press ultimately may find itself following the advice of judge Harold Medina of the second U.S. circuit court of appeals, who wrote recently:

"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 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."

PART V—CONGRESS AGAINST THE PRESS

". . . Were it left to me to decide whether we should have a Government without newspapers or newspapers without Government, I should not hesitate a moment to prefer the latter. But I mean that every man should receive these papers, and be capable of reading them."—Thomas Jefferson.

WASHINGTON.—Last week, on a day dominated by the announcement of a ceasefire agreement in Vietnam and the death of former President Lyndon Johnson, the Senate Interior Committee quietly made an historic break with the past.

By a unanimous vote, committee members for the first time in the history of the Senate decided to hold their full committee and subcommittee meetings in public rather than behind closed doors, and to require a public explanation for any exceptions to that policy.

"The people have a right to know how their land is being managed," Committee Chairman Henry Jackson, D–Wash., declared after the committee adopted the new rule on a motion by Sen. Lee Metcalf, D–Mont.

On the same day, in an action that received even less attention, Rep. John Anderson, R–Ill., introduced a resolution to amend House rules to require that all committees hold open meetings. The only exceptions would be when members vote in open session to meet behind closed doors on matters affecting national security or personal privacy.

Anderson quickly followed up with an identical resolution directed towards the House Rules Committee, of which he is second-ranking minority member. However, the committee on Tuesday voted to temporarily retain the existing system, leaving the Education and Labor Committee—which has long held only open meetings—the only House committee to follow such a policy.

Even though Anderson's latter anti-secrecy move has been stalled and his former one is given little chance of succeeding in the 93d Congress, his efforts along with those of the Senate Interior Committee reflect a growing awareness and concern on the part of many Members of Congress that too much of its business is shrouded in secrecy and silence.

Both the press—which would like to report on what takes place behind closed congressional doors—and the public—which might want to know how its elected representatives vote on crucial issues—have a stake in the current congressional battles. While many States and local governments have open-meeting laws, Congress so far has not passed such legislation—a long standing bone of contention between the press and Congress.

Among those who believe Congress is guilty of the same sins of secrecy and unaccountability of which it has often accused the executive branch are Sens. William Roth, Jr., R-Del., and Hubert Humphrey, D-Minn.

"Too often we in Congress have viewed secrecy in government—and its attendant credibility gaps—as problems of the executive branch," Roth declared last month as he and Humphrey introduced an "anti-secrecy rule" in the Senate.

"This is clearly not true," Roth added. "Last year, 38 per cent of all meetings of congressional committees were held in secret and 98 per cent of all business meetings were secret. This secrecy hides from the public a crucial part of the work of their Congress."

The Roth-Humphrey proposal is virtually identical to the one introduced by Rep. Anderson in that it would require that all Senate committee and subcommittee meetings be open to the public with national security and personal privacy exemptions permitted by majority vote.

The main target of the proposal is the so-called executive or mark-up sessions in which nearly all committees and subcommittees meet behind closed doors to decide the final language of bills.

"While there may have been convincing reasons for development of closed sessions in early years," Humphrey commented, "I believe it is time to recognize that the public has a right to share in the development of legislative policy at every stage."

Humphrey and Roth cited the argument of common cause and other public interest

lobbying groups that to the extent congressional committees do the public's business in secrecy, the accountability between elected officials and their constituents is clouded.

In addition to making Senators fully accountable to their constituents at the crucial stage of the legislative process, the two Senators believe their proposal will:

Increase public respect for and confidence in the legislative process and Congress as a whole;

Strengthen legislation by making expert points of view available in the crucial moments when a bill is written in final form;

Increase the influence of the informed public and of public interest groups in open competition with the executive branch and the special interests who in many cases have special access to mark-up sessions;

Provide insurance against hidden provisions or poorly drafted ones in legislation reported to the Senate floor;

Improve the reporting and understanding of legislation by the news media.

An even more comprehensive anti-secrecy bill was introduced the week after the Roth-Humphrey bill by Sen. Lawton Chiles, D-Fla.

Chiles' "Government in Sunshine" bill would require all decision making sessions of all Federal Government Agencies and of both Houses of Congress to be open to the public with only limited and specific exceptions.

Chiles, who introduced the same bill late in the last session of Congress, predicted that the "time is ripe" for passage of such landmark legislation. He said the legislation is needed not so much to prevent any untoward proceedings behind closed doors as to restore public confidence in government.

"Much less goes on (behind closed doors) than the public suspects," Chiles declared. "With 90 per cent of (committee meetings), there is no reason to close them. It all leaks out anyway. I'm more interested in restoring public confidence."

Although Chiles has 24 co-sponsors for his bill and a companion bill introduced in the House by Rep. Dante Fascell, D-Conn., has more than 50 co-sponsors, neither of the bills nor that of Sens. Roth and Humphrey or Rep. Anderson faces a bright future.

"Reforms as important as these are won over a period of years if at all," explained an aide on the Senate Government Operations committee which will handle the two Senate measures. "I would guess that most Senators and House members can sense that the public wants these kinds of changes, but they just aren't ready to give up any more power at a time when they feel this terrible impotence toward the executive branch."

Congress' frustration over this inability to influence the executive branch, particularly in regard to the conduct of Vietnam War and the funding of various domestic programs, reached a climax last month when Senate Democrats voted to try to limit the administration's use of "executive privilege" to prevent key White House officials from testifying before Congress.

At the same time, the House moved to streamline its administrative procedures and to reform some of its outdated rules and traditions to give it more muscle in its dealings with the executive branch.

It installed a new million-dollar electronic voting system that will cut in half the average time it takes for the 435-member body to complete a roll call vote and will vote this week on a sweeping reorganization proposal. In addition, Democratic and Republican caucuses in the house—and Senate as well—scrapped the automatic seniority escalator and required that all committee chairmen be elected by party caucus at the start of each Congress.

Despite the encouraging moves toward reform and anti-secrecy legislation, Congress still is clinging to many of its old ways. It still only reluctantly gives out figures on staff salaries, members' fringe benefits and congressional travel and many of its most powerful committees such as the House Ways and Means committee which holds two-thirds of its meetings in executive session still conduct most of their business behind closed doors.

Congress' stubborn penchant for secrecy was manifested recently when the House shouted down a proposal by Rep. William Steiger, R–Wis., that would have required the Congressional Record to print what is actually said on the floor in different type than material that is inserted later.

As a result, the Record, which bills itself as the Official Record of House proceedings and debates, still contains thousands of words each day that were never actually delivered by a member intermingled with those that were.

Even the Senate Interior Committee, which opened all of its meetings last week, has resisted allowing a verbatim record to be made when exceptions are made in its open-hearing rule.

An even more ominous threat to freedom of the press is seen by many newsmen in a new effort in Congress to revise a section of the Internal Security Act of 1950 which was passed in the Joe McCarthy era to make it a crime for Federal Government employees to "communicate" any classified information "affecting the security of the United States" to an agent of a Communist organization.

Tucked away in preliminary draft of a 524-page bill to reform Federal criminal laws to be introduced shortly by Sen. John McClellan, D-Ark., Chairman of the Senate Judiciary Subcommittee on Criminal Laws and Procedures is a section entitled "Misuse of Classified Information."

The section, which may be changed during the subcommittee and full committee hearings and mark-up, revises the 1950 law to make it a crime to give classified information to any "unauthorized person" and not just a Communist or a foreign agent.

Even though a McClellan aide who drafted the language insists that it is not intended to strengthen Federal secrecy laws and predicts that it will be changed, critics have denounced the measure as being "tantamount to passage of an 'official secrets act'."

Whatever the outcome, it is clear that new fronts are continually opening up in the historic battle between the press and the Government for control of public information.

PART IV—THE PEOPLE AGAINST THE PRESS

"Freedom of expression is the matrix, the indispensable condition, or nearly every other form of freedom"—U.S. supreme court justice Benjamin Cardozo in a 1936 opinion.

WASHINGTON.—At the conclusion of his one-year term as president of the national press club last December, syndicated columnist Warren Rogers described the current embattled state of the American press in gloomy superlatives.

"Never, in my 21 years in Washington and 33 years in the news business, have I seen such a blatant attack on the first amendment as we are witnessing today," Rogers declared. "Ladies and gentlemen, the press is in trouble."

Then, in an observation that both explained why that attack has occurred and placed it in historic perspective, Rogers added:

"And while we won't win any popularity prizes among the people, if the press is in trouble, then the people are in trouble."

Rogers' words reflected the growing awareness of many politicians and newsmen alike that the press generally is not well regarded by the public and that its role in a free society is not well understood.

Like all institutions in American life, whether religious, political, financial, academic or corporate, the news media have come under attack in recent years for reporting—often imperfectly and sometimes unfairly—the events of a period of national stress and social upheaval. Like the ancient messengers who were punished because they bore bad news, newspapers, magazines, radio and television have found that the very nature of their job invites public disapproval.

"This conflict between the press and the Government, each of which claim to represent the people, is not a new problem," asserts Sam Archibald, director of the University of Missouri's freedom of information center in Washington and a widely respected observer of both the Government and the press.

"It's a continuing, growing, evolving problem that will exist long after the Nixon administration is gone, but somehow many of these things that the press regards as intimidation that have been tried before now seem to be succceeding," Archibald adds:

"Why is this? Maybe it's because this administration has found that the public does not care about its right to know and wants to kill the messenger instead."

Yet at the same time, the press seems to have failed to convincingly remind the public of the special role and function assigned to it by the founding fathers in the first amendment and repeatedly emphasized by the U.S. Supreme Court through the years.

"A free press stands as one of the great interpreters between the Government and the people," the court declared in a landmark freedom of the press case in 1936, "to allow it to be fettered is to fetter ourselves."

The difficulty the press is having in convincing the public that it is not the press but the public that is the loser when press freedoms are curbed was articulated last month by conservative columnist James Kilpatrick as he lamented the mounting threat of judicial intimidation of reporters.

"The hardest thing to get over, because it sounds so infernally noble, is that this truly isn't our fight as newsmen," Kilpatrick wrote. "What we are struggling to defend . . . is the public's right to know. That right is in danger; and surely good judges, if they try, will see the danger as clearly as we do."

The judiciary may recognize that danger, but there is evidence that the public does not. A Gallup poll in November found that only 57 percent of the people supported the right of newsmen to protect confidential sources and many editors are finding their mail heavy with complaints about the press seeking "Special privileges" in the form of newsmen's "shield" laws.

As William Thomas, editor of the Los Angeles Times which has fought off over 80 attempts in the past four years to subpena its people or obtain unpublished material, asked in a recent speech, "Why are we (the press) so special? And how do you answer that question without the risk of sanctimony?"

One way, Thomas suggests, is to "admit to some imperfection," which the news media are doing with increasing frequently in response to recent criticisms. Some radio and television stations have hired conservative commentators to present a more balanced political viewpoint, many newspapers and magazines have opened their pages to spokesmen for various interests and some have created "ombudsmen" to monitor coverage of stories.

"In addition, journalism reviews have sprung up in many cities around the country in recent years to provide often harshly critical comment on the performance of local news media.

But while some newsmen feel that more self-censorship along with the outside attacks on the press will work together to eliminate some of the media's own self-satisfaction and sensitivity to criticism, there is considerable disagreement about how or even whether that self-censorship should be imposed.

When the New York-based twentieth cen-

tury fund announced plans last month to create a national press council to monitor the performance of the news media and accept complaints from the public, national news organizations had opposing reactions.

Some, like the Washington Post, said they would cooperate with the 15-member council—which includes 9 newsmen—but others, most conspicuously the New York Times, said they would not.

Asserting that it would be dangerous for the press to institutionalize any such self-scrutiny in a press council or similar instrument and that this is precisely what the Nixon administration wants, Times associate editor Tom Wicker warned against conceding the vital point that such a watchdog body is needed.

". . . the fact is that the American press does not really need self-censorship, particularly in reporting on the government," Wicker wrote this week. "It needs, instead, a vigorous new spirit of inquiry, a bold new determination to make its commitment to truth as it can be perceived, rather than to any administration, any ideology or any government-defined statement of the national interest."

Echoing a debate that has gone on for centuries, Wicker contends that the press council's goal of keeping the press more "free" by making it more "responsible" is a contradiction in terms:

"If the press is truly free, it follows that it will not always be 'responsible', and anything that tends to enforce (italics enforce) its 'responsibility' necessarily makes it less than free."

The same understanding that the press must have maximum freedom, even at the cost of occasionally acting irresponsibly, was at the heart of the philosophy which the Founding Fathers expressed in the sacrosanct first amendment.

As James Madison wrote at the time of the constitutional convention, "some degree of abuse is inseparable from the proper use of everything, and in no instance is this more true than in that of the press. It has accordingly been decided by the practice of the states, that it is better to leave a few of its noxious branches to their luxuriant growth than, by pruning them away, to injure the vigour of those yielding the proper fruits."

The legendary Judge Learned Hand used different words to make the same point about the paradoxical freedom of the press when he observed in 1943 that the first amendment "presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all."

THE TRANSPORTATION CRISIS

Mr. WEICKER. Mr. President, on February 6, the NBC news program First Tuesday presented a report by Paul Duke on America's transportation crisis. The program, produced by Peter Jeffries, took a hard look at the highway lobby and its powerful friends in Washington.

It showed how they are determined to continue using money from the Highway Trust Fund to build more and more highways despite the pleas of environmentalists, civic groups, leaders, and enlightened Members of Congress to use part of the money for desperately needed mass transportation.

The program did a great deal to inform the public on the key issues in the current battle in Congress to tap the trust fund. It also showed very graphically the cost in human misery of this Nation's highway building program.

Messrs. Duke and Jeffries are to be congratulated for their dramatization of the issues, and NBC for having the courage to present what was a timely, but controversial, report. It was journalism at its best.

A SHIFT FROM "PEOPLE PRIORITIES"

Mr. ABOUREZK. Mr. President, the budget message recently delivered to Congress, when taken into account with our many "hidden" subsidy programs, seems to propose a distinct shift away from "people priorities."

In the end, the strength of a nation does not rest upon its vast inventories of the machinery of death nor upon its exploits into the affairs of other nations.

In the end the strength of a nation rests upon the strength of its people. Are they strong? Are they healthy, well-fed, prosperous, and united? Do they grovel in poverty or are they a growing society with room and equity for all? Are their common institutions viable? Can they afford that certain healthy amount of internal struggle, chaos, and change? Or are their arteries hardened, their nerve ends dead, and is their vision narrowed, selfish, and unmoving? Do they face their problems squarely, honestly, and openly or do they gloss over the cracks in society and use a growing police state to enforce the stability which a healthy state finds naturally?

I would respectfully submit that the priorities outlined in the President's budget points out in the worst of these directions.

There is more room for war and private greed in this budget than for compassion, generosity, and humanity.

It papers over the cracks rather than shoring up the weakening foundations of American society.

With those comments, I ask unanimous consent to have printed in the RECORD a letter some people with similar concerns recently sent to the President.

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

JANUARY 31, 1973.

The PRESIDENT OF THE UNITED STATES,
RICHARD M. NIXON,
White House,
Washington, D.C.

DEAR PRESIDENT NIXON: We are writing to voice our protest over the budgetary priorities in your proposed 1974 fiscal budget. At a time of nagging inflation and large federal deficits, concern over the level of federal spending is of course understandable. But what seems unjustified, and at the least unexplained, is why the Administration has wielded an ax on a number of social service programs without even applying a scalpel to corporate subsidy programs. The former can save millions of dollars at the cost of human welfare while the latter wastes billions of dollars on behalf of preferred business firms.

The following lists compare the costs of these two types of programs:

THE 1974 BUDGET REDUCTION IN MILLIONS

Hill-Burton Program—To construct public or other non-profit hospital and clinical facilities; $90.

Regional Medical Program—To improve and regionalize research on, and delivery of, health services, especially "for persons residing in areas with limited health services"; $60.

Community Mental Health Clinics—To develop community mental health centers as an alternative to ineffective and costly state mental institutions, especially to provide facilities to those unable to pay; $50.

Training Grants and Fellowships—Promotes long term categorical training for selected professional disciplines, like social workers, health aides, and psychiatrists; $58.

Medicare—To provide medical insurance to the elderly. Various rule changes will increase out-of-pocket charges to the 23 million elderly and disabled beneficiaries of this program; $1,600.

Education—Includes all education programs in HEW; the largest component of cutback is for reduction in library construction and services ($138 million) impact area aid ($143 million) and "educational development" ($53 million). Actually, federal education budget has been reduced by an additional $2.52 billion, with projection that a $2.53 billion educational revenue sharing bill will pass Congress this session.

Public Assistance—Includes all federal welfare assistance programs in HEW, with proposed reductions occurring largely in maintenance assistance and social services, $1,237.

Office of Economic Development—An agency to research and reduce incidence of poverty. Agency abolished with some functions transferred to other Departments; $390.

Water Pollution Control—Of $11 billion legally appropriated by Clean Water Act of 1972 to clean up nation's waterways, approximately $6 billion is being impounded over two years; $3,000.

Manpower Programs—To encourage on the job and classroom training, summer jobs for youth, vocational rehabilitation, subsidies for those hiring the hard-core unemployed, and public service employment; $499.

Housing Subsidies—To help fulfill the 1949 Housing Act's pledge of "a decent home and suitable living environment for every American family." The 1974 Budget suspends new commitments under the housing subsidy program; $305.

Housing Projects—No new project approved for urban renewal, model cities, open space, neighborhood facilities, and rehabilitation and public facility loans; ($745 saving projected by 1975 budget).

Community Relations Service—To provide assistance to communities trying to resolve racial disputes; $4.

I. CORPORATE WELFARE: SUBSIDIES AND WASTE; ANNUAL COST IN MILLIONS

Merchant Marine Subsidies—Includes both construction subsidies and operational subsidies, which make up difference in costs between American carriers and equivalent outlays on foreign vessels; $460.

Air Carrier Payments—To cover any operating losses by air carriers for specific air transportation services; $66.

Government Guaranteed Loans—The underwriting of specific private loans, such as Lockheed's $250 million loan; the subsidy for the private firm is the difference between what it pays for the loans with a government guarantee and what it would pay without such a guarantee.

Government-Owned Property Used by Private Contractors—Use of defense facilities by private firms either for production of defense equipment (for which they pay no rent) or for commercial production (for which they pay a small amount of rent). As of June, 1970, $14.6 billion worth of government property so held by defense contractors.

Export-Import Bank—Low cost loans to encourage corporations to trade abroad; $65–$169, depending on prevailing interest rates; fiscal year 1971 estimates.

Defense Procurement—Totals some $40 billion annually. Yet due to noncompetitive, nonadvertised bidding, sole source negotiating, and "cost-plus" contracts, there have been huge cost overruns severely taxing the public treasury. One study by the Joint

Economic Committee found that 45 weapons systems had increased in projected costs by $7 billion from June, 1970 to June 1971; (est.) $7,000.

Drug Procurement—HEW expenditures for drugs, largely for medicare and medicaid, was $1.5 billion in 1972. Because purchase is often by brand (not generic) name and not by centralized procedures, the government is overpaying drug firms by approximately half, according to the data of HEW economists; $750.

Patents—The Federal Government spends over $15 billion annually for research and development, with most resulting patents being granted royalty-free to private firms In many other countries the government retains title and sublicenses these patents at reasonable royalties to private industry, thereby recouping a substantial part of government R&D expenditures; n/a.

This corporate subsidy compilation represents present policies. Two pending proposals, if implemented, would have to be added to this list. Your administration has backed legislation seeking indemnification to private firms for losses connected with the HEW ban on cyclamates. Former HEW Secretary Robert Finch has estimated that such federal compensation could range between $250 million and $500 million. In addition, Administration spokesmen have reiterated the Administration intention to propose federal subsidies for the construction of an American SST. Based on the last Administration request, this would cost the public treasury at least $289 million.

But merely listing corporate subsidies understates the problem. For one can control the federal budget either by limiting expenditures *or* by raising revenues. Thus, the following corporate welfare list (based on "Estimates of Federal Tax Expenditures" prepared in 1971 by the staffs of the Treasury Department and the Joint Committee on Internal Revenue Taxation) reflects the lost revenues due to the indirect (and usually invisible) subsidies attributable to certain preferential tax policies:

II. CORPORATE "TAX EXPENDITURES"; COST IN MILLIONS (1971)

Deferral of income controlled foreign subsidies, $165.

Excess of percentage over cost depletion, $785.

Investment tax credit, $1,495; (over next decade expected to increase to an average of $4,500–$4.5 billion annually).

Asset Depreciation Range, $600 (over next decade expected to increase to $3.5 billion annually).

Depreciation on buildings (other than rental housing) in excess of straight-line, $320.

Capital Gains: Corporations—(other than farming and timber and excluding individuals), $380.

Domestic International Sales—Corporation (DISC) (in effect an exemption of one-half of all export profits), $400 (approx.).

Expensing of exploration and development costs, $260.

Western Hempishere Trade Corporation, $75.

Timber: Capital Gain treatment for certain income, $125.

Bad debt reserves of financial institutions in excess of actual, $400.

Exemption of interest on State and local debt, $485 (difference between federal corporate revenue loss and interest savings to state and local governments).

This subsidy and tax expenditure list is by no means exhaustive. And even direct subsidies, indirect subsidies, and procurement waste fail to describe the extent and the cost of federal policies toward what have been called by some elected Canadian officials "corporate welfare bums." Federal tariff and quota policies, by limiting foreign competition and thereby permitting a higher than competitive price for many domestic products (e.g., steel, textiles, oil), leads to a net transfer from consumers to corporations of about $20 billion annually.* The failure of our antitrust laws to check monopolistic practices also redistribute wealth from the many consumers to the relatively few corporate managers and large shareholders by an estimated $24–31 billion annually.** In effect, by means of high, noncompeting prices, corporations levy a private tax and lessen net consumer income.

A variety of reasons have been offered to defend the human welfare cuts. The OEO, it is said, has simply been lateraly reorganized into HEW; yet staff and funding reductions make it clear that much of this agency has been eliminated, not merely relocated. OEO Programs with zero 1974 funding are the Community Action Programs, State Economic Opportunities Offices, Senior Opportunity and Services, and certain training and technical assistance programs. It is said that states and localities, via revenue sharing, will assume many of your social cuts. Yet not only do most areas lack parallel programs to those being deleted, but the cuts are so many that it seems unlikely revenue sharing, even *if* recipient jurisdiction were so inclined, could sustain the burden. But recipient jurisdictions may well *not* be inclined to assume the federal social welfare programs you are shedding. Revenue sharing without stipulations means there may be a new city hall, not a new vocational training program, and for many areas it will simply mean a reduction in local property taxes, so that total revenue remains the same.

The Regional Medical Program supposedly failed in its mission of improved health delivery. So have many weapon systems, but they are not eliminated; redesign to improve malfunctioning programs would appear preferable to wholesale elimination, yet no such reevalution seems to have been considered. Some programs have been said to have achieved their goal and are no longer needed (e.g., Hill-Burton and Community Mental Health Centers), yet closer scrutiny leaves that conclusion open to question (many poor communities and urban areas still lack adequate hospital facilities, however ample the number of hospital beds may be in other communities; the 515 existing Community Mental Health Centers can hardly claim to remedy the nation's mental health problems). Since there are, according to federal studies of public assistance, an ineligibility rate of 6.8 percent and an overpayment rate of 13.7 percent for the Aid for Dependent Children program, and error rates of 4.9 percent and 9.7 percent for the adult categories, the huge cut in federal public assistance supposedly follows. Unmentioned, however, is the large percentage of desperately poor people who need welfare assistance but presently do not receive it, as well as the meager assistance obtained by those poor who are able to receive assistance. In fact, according to the Citizen's Board of Inquiry, almost half of the nation's poor are still not receiving food assistance. And finally, reference is constantly made to the fact that the human services percentage of the federal budget has been steadily increasing in recent years, and that the 1974 HEW budget is $10 billion more than the 1973 budget. As the war recedes we would only expect a more sensible realignment of the social service and defense budgets. Also, HEW budgets go up (a) largely because Congress mandates increased spending in certain areas (e.g., four-fifths of this year's HEW budget increase is attributable to the increase of Social Security benefits, despite your well-publicized reluctance) and (b) partly because of skyrocketing medicare and medicaid costs attributable to the lack of cost and quality control, which leads to hundreds of millions of dollars of annual budgetary waste and high profits for the medical industry. The fundamental issue is not whether federal human resource expenditures do or should go up, but by *how much* they should. And the fundamental test of Presidential courage and leadership is to make government work best for those who need it most, rather than eliminating those programs with the weakest constituency and preserving those pushed by the most powerful.

It is true that there is waste and poor administration in many federal programs, human resource ones included, that might justify paring down or phasing out. What troubles us, however, is the pattern of belt-tightening toward social service programs but inattention to corporate subsidies. Your search "into every nook and cranny of the bureaucracy" does not seem to include this obvious area of waste (not to mention the fact of a defense budget increased by $4.2 billion during peacetime). While human needs in this society are so clearly unmet, all too often corporate paternalism, as Franklin Roosevelt once said of a proposed tax bill, "provide[s] relief not for the needy but for the greedy."

If, as outgoing HEW Deputy John Veneman said at the HEW budget briefing, "there is a conscious decision by this administration to identify those programs which have fulfilled their purpose already or cannot fulfill those purposes," why is this fiscal standard not also rigorously applied to programs which forgive tax payments and dispense corporate emoluments? If "throwing dollars at problems" can be wasteful in human resource problems, why aren't the billions handed over to the maritime, drug, and defense industries included in your analysis? If you defend human resource cuts by observing that Congress "gets enormous pressure from special interests to spend our money," why is mention omitted of the classic special interests—those with the political power to increase the corporate dole? Indeed, why are you never critical of corporations at the public till? The cost to taxpayers of wasteful corporate welfare far exceeds the cost of wasteful human welfare, as comparison of the lists above clearly indicate. (For example, all the HEW cuts listed, for health and education, equal the merchant marine subsidies alone; and the total tax breaks for corporations above, once ADR and DISC mature, totals $11.4 billion.) It seems an understatement to conclude you are employing a double standard: frugality for needy people, extravagance for corporate interests.

We would therefore like to know, for two specific examples, the Administration's explanation for spending $460 million to support the merchant marine fleet. The "national security" needs of this fleet have already been disparaged by objective experts and the relevant authorities in your predecessor's Administration; an August 16, 1967 memorandum from the then Secretary of Transportation Alan Boyd to President Lyndon Johnson said that "the reason for a program as large as 30 ships [which your Administration has approved] arose from a desire to buy industry and labor acceptance of the major policy reform of foreign construction. . . . A much smaller program would meet all national needs. Schultze, McNamara and I agree on this." In addition, it seems uneconomical to spend $460 million to preserve such an inefficient industry. And second, what is the

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*Bergsten, "The Cost of Import Restrictions to Consumers" (American Importers Association, 1972); Fieleke, "The Costs of Tariffs to Consumers," *New England Econ. Rev.*, Sept.–Oct. 1971, at 13. See also B. Moore, "Beyond McGovern's Radical Economics—the $300 Billion that He Missed," *Congressional Record*, Oct. 3, 1972, at S16622 et. seq. (especially n 29 at 16628).

**W. Shepherd, *Market Power and Economic Welfare* 208–213 (1970); F. M. Scherer, *Industrial Market Structure and Economic Performance* 409 (1970).

explanation for the inefficient method of federal drug procurement, which, as noted, costs some $750 million to taxpayers in wasteful procurement to inflate the profits of the drug companies? We would appreciate specific answers to these questions by you.

In conclusion, Mr. President, we would urge that before you stop programs for the many, you at least should scrutinize programs for the few. Before there are fewer libraries and hospitals and low income apartments and sewage control systems, there should be fewer subsidized ships, less expensive drug and arms procurement, and more taxes paid by coddled corporations. The overall benefit to the individual taxpayer and to the public treasury would be substantial. And another beneficiary would be the free enterprise system, which without the props of many federal corporate subsidies would be more competitive, more efficient, and more responsive to consumers, leaving them with increased income to meet their needs. In a society already marred by a maldistribution of wealth and income, it is unjust to make the poor, poorer and the rich, richer by cutting some $8 billion in human welfare and tolerating over $19 billion in corporate welfare.

Sincerely yours,

Jerry J. Berman—Assistant to President, Center for Community Change.*

Barbara Bode and Ms. Samm Brown—Children's Foundation.

Paul Friedman—Mental Health Project.

Mark Green—Corporate Accountability Research Group.

Fred Harris and James Rosapepe—New Populis Action.

Susan King—National Committee for an Effective Congress.

John Kramer—National Council on Hunger and Malnutrition.

Albert H. Kramer—Citizens Communications Center.*

Terry Lenzner—Project on Corporate Responsibility.

Phil Michael—Environmental Action.

Ralph Nader.

Joseph Onek and Richard Frank—Center for Law and Social Policy.*

Grady Poulard—Independent Foundation.

Marilyn Rose—Health Law Project.

John Tillman—National Welfare Rights Organization.

Mary Vogel—National Organization for Women.

Washington Research Project Action Council.

Tracy Weston—Stern Community Law Firm.

George A. Wiley—National Coordination, Movement for Economic Justice.

Richard B. Wolf—Deputy Director, Institute for Public Interest Representation.

*For identification purposes only.

SPENDING PRIORITIES

Mr. INOUYE. Mr. President, there is no matter of greater current concern or national interest than governmental spending priorities and the means by which we determine how we will allocate limited available resources.

The Constitution gives to the Congress—and only to the Congress—the power to appropriate. If there is any uncertainty as to the delineation between executive versus legislative prerogatives in the ongoing national debate on this subject, it is solely attributable to the Congress not having asserted its full authority or exercising its absolute control over the flow of public funds.

Yesterday the distinguished chairman of the Senate Appropriations Committee delivered a strong and comprehensive address to the Senate in which he drew from the wisdom of his long experience and charted a way out of our current dilemma.

I, for one, strongly support his commitment to hold appropriations to the lowest level that is:

Consistent with economic capabilities, fiscal requirements for the proper functioning of our Government, and the maintaining of a posture of military strength that is required for national security.

Chairman McCLELLAN called for the 13 appropriations subcommittees to arrive at and report to the full committee the lowest practical and feasible amount that each feels is necessary for those programs and services under its jurisdiction.

Following the chairman's direction, I called a meeting of the Subcommittee on Foreign Operations early this afternoon and in response to his request we have adopted a target subcommittee budget. The overall goal of the subcommittee for the forthcoming fiscal year—1974—for those activities funded by the foreign assistance and related programs appropriations bill is $3,113 million. This is a reduction of $1,202,581,000 in new obligational authority, as contained in the budget estimates submitted by the President last week. It is $77,896,000 less than appropriations for these same activities in fiscal year 1972 and $539,701,000 below the fiscal year 1973 rate contained in the continuing resolution under which these programs are presently operating.

As Chairman McCLELLAN stated, these goals adopted by the several subcommittees are not "binding" but they are highly desirable and even necessary for the orderly development of targets for overall congressional appropriation spending goals.

I am pleased to report that the Foreign Operations Subcommittee is the first to establish its target, and given the cooperation of the authorizing committees, I pledge my best efforts to see that it is attained in a timely and orderly manner.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

Mr. MANSFIELD. I ask that the Chair lay before the Senate the unfinished business.

ESTABLISHMENT OF SELECT COMMITTEE TO INVESTIGATE AND STUDY CERTAIN ACTIVITIES IN THE PRESIDENTIAL ELECTION OF 1972

The ACTING PRESIDENT pro tempore (Mr. HARRY F. BYRD, JR.). The Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A resolution (S. Res. 60) to establish a select committee of the Senate to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting individually or in combination with others, in the Presidential election of 1972, or any campaign, canvass, or other activity related to it.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. PELL. Would the Chair inform me, what is the pending business?

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

S. Res. 60, to establish a select committee of the Senate to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting individually or in combination with others, in the Presidential election of 1972, or any campaign, canvass, or other activity related to it.

Mr. PELL. Mr. President, is there a time agreement in connection with this matter?

The PRESIDING OFFICER. There is no time agreement.

Mr. PELL. I thank the Chair.

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

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

PRIVILEGE OF THE FLOOR

Mr. BAKER. Mr. President, I ask unanimous consent that, during the pendency of any amendment I may offer to this resolution, Mr. J. P. Jordan of my staff be permitted the privilege of the floor.

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

CALL OF THE ROLL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 12 Leg.]

Allen	Ervin	Nelson
Baker	Griffin	Pastore
Bentsen	Hathaway	Sparkman
Byrd, Robert C.	Helms	Symington
Cranston	Hruska	Talmadge
Domenici	Jackson	Tower
Eagleton	Mansfield	

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Abourezk	Eastland	McIntyre
Aiken	Fannin	Metcalf
Bartlett	Fulbright	Moss
Beall	Gurney	Muskie
Bellmon	Hansen	Nunn
Bennett	Hart	Pell
Bible	Hartke	Percy
Biden	Haskell	Proxmire
Brock	Hatfield	Randolph
Buckley	Hollings	Roth
Burdick	Huddleston	Schweiker
Byrd, Harry F., Jr.	Hughes	Scott, Pa.
Cannon	Humphrey	Scott, Va.
Case	Inouye	Stevens
Chiles	Javits	Stevenson
Clark	Kennedy	Taft
Cook	Long	Tunney
Cotton	McClellan	Weicker
Curtis	McClure	Williams
Dole	McGee	Young
	McGovern	

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. JOHNSTON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from South Carolina (Mr. THURMOND) 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.

The PRESIDING OFFICER. A quorum is present.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, February 7, 1973, he presented to the President of the United States the enrolled 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.

ESTABLISHMENT OF SELECT COMMITTEE TO INVESTIGATE AND STUDY CERTAIN ACTIVITIES IN THE PRESIDENTIAL ELECTION OF 1972

The Senate continued with the consideration of the resolution (S. Res. 60) to establish a select committee of the Senate to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting individually or in combination with others, in the Presidential election of 1972, or any campaign, canvass, or other activity related to it.

The PRESIDING OFFICER. The question is on the adoption of the resolution.

Mr. BAKER. Mr. President, I have an amendment at the desk, which I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read the amendment, as follows:

On page 2, line 11, strike "five" and insert in lieu thereof "six".

On page 2, line 14, strike "two" and insert in lieu thereof "three".

Mr. BAKER. Mr. President, this amendment to the resolution now pending before the Senate simply provides that the select committee constituted by the resolution would consist equally of three Republicans and three Democrats.

On yesterday, in colloquy with the distinguished senior Senator from North Carolina, I indicated that I felt that a select committee was the preferable way to constitute a board of inquiry of the Senate; that I thought it was superior to one of the standing committees doing this inquiry. I thought it offered a greater opportunity to illuminate all the facts attendant on the circumstances of the recent Presidential campaign and other political activities.

I indicated, as well, that the precedent for having an equal division in select committees and special committees of the Senate in this respect was well established, and that I believed we would enhance and reinforce the position of absolute objectivity and freedom from personal consideration if we were to back that precedent in this instance.

I also indicated yesterday that I have no doubt whatever about the objective manner, the calm, cool, and judicial manner, in which the distinguished senior Senator from North Carolina will conduct this inquiry as chairman of the select committee if he is chosen as chairman of the select committee. This amendment in no way impugns his standing in that respect, nor does it suggest that I have any fear that the majority members of the committee, nor the staff, for that matter, will engage in a partisan witch hunt.

On the other hand, Mr. President, we must face the fact that, inevitably, this inquiry will be fraught with political implications. That has been the case previously on other occasions, and the Senate has dealt with it, I think, in a very commendable way.

Precedents that occur to me in that respect go back at least to 1954, when there was a select committee of the Senate to investigate the McCarthy allegations. A resolution was adopted by the Senate in 1954, constituting a committee, on the basis of equal distribution, of three Republicans and three Democrats.

More recently the Senate Standards and Conduct Committee, which, of course, is a committee of very high sensitivity, dealing with the conduct of the members of this body, was constituted on the basis of three Republicans and three Democrats.

In the other body, the House of Representatives, in their allocation of membership to the House Standards of Official Conduct Committee, has followed the same principle, when it allocated a membership on the basis of six members for each party.

In the Select Committee on Improper Activities in the labor-management field in 1957, the same formula was followed with an allocation on the basis of four members for each party.

More recently there was created a special Senate Committee on the Termination of the National Emergency. That Special Committee is made up of equal numbers of Republicans and Democrats, four of each party.

The special committee to study questions related to secret and confidential documents, which was created in S. Res. 13 in the 93d Congress, is made up of five Republicans and five Democrats.

I feel that as we launch into a broad, sweeping inquiry, far broader than any judicial inquiry can be, certainly more comprehensive and broader than any criminal inquiry can be, and as we go into legislative type hearings as distinguished from judicial hearings where we are encumbered with the Federal rules of civil procedure or the rules of criminal procedure, it is incumbent on us that we guard against any question on partisanship in the inquiry on which we are about to embark. It is for that reason that I offer this amendment to change the composition of the committee from three Democrats and two Republicans to three Democrats and three Republicans, with the avowed and expressed hope that if that happens, the distinguished senior Senator from North Carolina will be chosen and will agree to accept the assignment as chairman of the committee.

Mr. President, I am willing at this time to yield the floor.

Mr. ERVIN. Mr. President, I am strongly opposed to this amendment. Indeed, if this amendment were agreed to, it would mean that the resolution would carry within its provisions the seeds of its own incapacity to enable the performance of the functions which the resolution would assign. I will come back to that in a minute.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I have studied the precedents, and virtually without exception every select committee

that has been established since 1947 has been divided between the majority party in the Senate at the time and the minority party in the Senate at the time so as to give the majority party a larger representation in numbers than that of the minority party. For example, in the second session of the 80th Congress, they established a special committee—which is a name they used to give to select committees—to investigate the national defense program.

The membership of that committee consisted of six Republicans and four Democrats.

The same session established a Special Committee To Study the Problems of American Small Business. The membership of that committee consisted of seven Republicans and five Democrats.

The same Senate established a Special Committee To Reconstruct the Senate Roof and Skylights and Remodel the Senate Chamber. The membership of that committee consisted of three Republicans and two Democrats.

If we are going to have a majority and a minority party on the Select Committee To Study the Reconstruction of the Senate Roof and Skylights and Remodel the Senate Chamber, where there are present no political overtones of any kind, we certainly should have a division which would enable the committee to be established by Senate Resolution 60 to function in the event of disagreement between the members of two different parties on the committee.

During the 81st Congress, they continued the Select Committee on Small Business with an assigned membership of eight Democrats and five Republicans.

In the 82d Congress, they retained the Special Committee on the Reconstruction of the Senate Roof and Skylights and Remodeling of the Senate Chamber with a membership of three Democrats and two Republicans.

They established in that session a Select Committee on Small Business, with a membership consisting of seven Democrats and six Republicans. They also established a Special Committeee To Investigate Organized Crime in Interstate Commerce, with a membership consisting of three Democrats and two Republicans.

During the 84th Congress, the Select Committee on Small Business was continued with a membership consisting of seven Democrats and six Republicans. They also established at that time a Special Committee on the Senate Reception Room which consisted of three Democrats and two Republicans. Why they should have any difference where there is no great likelihood of anything more important to discuss except how the reception room should be decorated or whose pictures should hang on the wall, I do not know. There is no room for disagreement. Well, some could disagree on that, I guess.

In the 85th Congress, they continued that Select Committee on Small Business with a membership of seven Democrats and six Republicans.

During the 86th Congress, the Senate continued the Select Committee on Small Business with a membership of 11 Democrats and six Republicans. They established a Select Committee on National Water Resources. Surely there is not much room for disagreement about water, unless we are going to have a little bourbon or Scotch to go with it. This committee consisted of 10 Democrats, with one other Democrat as an ex-officio member of the committee, and six Republicans.

The Senate established, in that same Congress, a Special Committee on Unemployment Problems. That committee consisted of six Democrats and three Republicans.

In the 87th Congress, the Select Committee on Small Business was continued with a membership of 11 Democrats and six Republicans constituting its membership.

During the same Congress, the Senate established a Special Committee on Aging which consisted of 14 Democrats and seven Republicans.

During the 88th Congress, the Senate continued the Select Committee on Small Business with 11 Democrats and six Republicans. It also continued the Special Committee on Aging with 14 Democrats and seven Republicans.

During the 89th Congress, the Senate continued the Select Committee on Small Business with 11 Democrats and six Republicans, and the Special Committee on Aging with 14 Democrats and seven Republicans.

Then, during the 90th Congress, the Senate continued the Select Committee on Small Business with 11 Democrats and six Republicans, and the Special Committee on Aging with 13 Democrats and seven Republicans.

During the 91st Congress, the Senate continued the Select Committee on Small Business with 10 Democrats and seven Republicans, established a Select Committee on Nutrition and Human Needs with eight Democrats and five Republicans, and continued the Special Committee on Aging with 11 Democrats and nine Republicans.

During the 92d Congress, the Senate established a Select Committee on Equal Educational Opportunity with a membership composed of nine Democrats and six Republicans. During the same Congress, the Senate continued the Select Committee on Nutrition and Human Needs with eight Democrats and six Republicans constituting its membership It also continued the Select Committee on Small Business with nine Democrats and eight Republicans, and the Special Committee on Aging with 11 Democrats and nine Republicans.

I think the records will show that the membership of these select committees was composed of Democrats and Republicans proportionate to the respective membership in the Senate of Members of the two parties. It is true that there have been, during recent years, some four committees where the membership was equally split. Three of those committees dealt with matters concerning the internal affairs of Congress and matters relating to the Senate itself.

In other words, we had the Select Committee on Standards and Conduct, the membership being equally divided between the two parties having representation in the Senate. There is in that committee virtually no room for tie votes or differences of opinion, because Members of the Senate of both parties certainly entertain virtually the same opinions in respect to what constitutes ethical conduct on the part of a Senator of the United States. So that is totally unlike the select committee which is proposed to be established by the pending resolution. The pending resolution proposes to authorize an investigation and study, not of anything relating to the Senate exclusively, but of matters relating to the Presidential election of 1972, a matter lying outside the scope of senatorial activities or senatorial conduct.

A second select committee of the four that I have discovered which had equal division in the party membership of their members was the Special Committee on the Reorganization of Congress. That had reference to the internal affairs of Congress and how they should be conducted, and there were no possible partisan implications in that committee. It had nothing to do with anything outside of the Congress itself.

The third select committee where the membership was equally divided was the Watkins Committee which was appointed to study the question of whether Senator Joseph McCarthy, of Wisconsin, should be censured for conduct unbecoming a Senator. Manifestly, that was a matter within the family of the Senate itself, and was dealt with by an equally divided select committee, as should have been done.

The other ilustration of a select committee, whose function did not relate to the internal affairs of the Senate or Congress as did the other three, was a Select Committee To Investigate Improper Activities in Labor-Management Relations. The membership of that committee was equally divided, but there were two reasons for that, both totally unlike the reason which prompts the introduction of this resolution.

The Subcommittee on Permanent Investigations of the Committee on Government Operations began an investigation of its own accord into certain activities of officers of the Teamsters Union on the West coast. The Committee on Labor and Public Welfare claimed that the permanent Subcommittee on Investigations was trespassing on its legislative domain, and a controversy arose in the Senate with respect to which of the two committees had jurisdiction of the investigation into alleged improper conduct in the labor and management field. So, to reconcile the conflicting claims of jurisdiction and to proceed with the investigation which circumstances indicated needed to be made, a compromise was agreed upon whereby they established a select committee composed of an equal number of Senators from the permanent Subcommittee on Investigations of the Committee on Government Operations and from the Committee on Labor and Public Welfare. That was the reason why there was an equal number of Senators from each committee.

There was another consideration:

Everyone recognized that labor had then, as it has now, a powerful political clout, and the membership of the two parties in the Senate was divided by only about one Senator. The Democratic Party had perhaps a majority of one Senator, and it was recognized that if there was any hope of securing the adoption of a resolution establishing a Select Committee To Investigate Improper Activities in the Labor and Management Field, there would have to be strong bipartisan support from both parties. So it was agreed that not only would they have an equal division of membership between the Subcommittee on Permanent Investigations and the Committee on Labor and Public Welfare, but in order to assure strong bipartisan support for the resolution establishing the select committee, the membership should be apportioned in equal numbers between the two political parties in the Senate. That is the explanation for that. That is the only select committee I can find, outside of the select committee dealing with internal affairs of the Senate and dealing with the internal affairs of Congress, that has been set up since about 1947. I have not had the opportunity to investigate the conditions before that.

This is, as the distinguished Senator from Tennessee has said, a case which might, unless the select committee acts circumspectly, have some political overtones. There has been only one other similar select committee set up during the life of this generation, so far as I can find, and that is what we have called, popularly, the Committee To Study the Controversy Between Senator McCarthy and the Army. That select committee was set up during the time when a majority of the Members of the Senate adhered to the Republican Party. That was a select committee which investigated charges which had considerable overtones, because of the charges which had been leveled against Secretary Stevens and the Department of the Army.

So when the Senate established the select committee to investigate those charges, it established a Special Committee on Investigations which had a membership composed of four Republicans, Karl Mundt, Everett Dirksen, Charles Potter, and Henry Dworshak; and three Democrats, JOHN L. MCCLELLAN, HENRY M. JACKSON, and STUART SYMINGTON.

The select committee was appointed to investigate an area more similar to the matter covered by this resolution than in any other area in the modern history of the Senate. The precedent set by the Republicans, then a majority, in that case, of establishing a select committee consisting of four Republicans and three Democrats is still the precedent we should follow in this case.

The reason I am opposed to this amendment is that I do not think the Senate should pass a resolution establishing a select committee which embodies in its provisions a provision which would possibly make it difficult, or even impossible, for the select committee to perform its functions. I would hope that any investigation which might be conducted by a select committee under this resolution would try to ignore political considerations.

I am certain that all the Members on both sides of the aisle share that desire. I pledge myself to do everything within my power to see that political overtones can be eliminated from any investigation and study under this resolution, to the maximum extent possible.

As I said yesterday, I take the business of judging my "fellow travelers to the tomb" very seriously, and I will do everything in my power, if I should be made chairman of this select committee, to see that the subcommittee judges those who may be charged with illegal, improper, or unethical conduct in respect of the elections, or any campaign, or canvass, with the cool neutrality of the impartial judge.

But I would dislike to be chairman of a committee which did not have the capacity within itself to make the decisions which it has to make to carry out the duties imposed on it. That would be precisely the effect this amendment would do. This amendment would provide a mechanism by which it is quite possible that the select committee could never reach a majority decision in respect to what investigations it should conduct or what subpenas should be issued, or what the committee staff should do.

I just think it would be the height of folly for the Senate to adopt a resolution establishing a select committee with provisions in the resolutions which could—I do not say they will—but they certainly create the possibility that the committee would be unable to reach any decision with respect to the matters necessary to enable it to perform the functions which the resolution would impose upon it.

For these reasons, I know that it is not the motive of my good friend from Tennessee to have a stalemate, or to have a committee which would be powerless to make a decision and, yet, that is the possibility created by this amendment.

I, therefore, appeal to the Senate that if it wants a select committee which would certainly have the power to function instead of being bogged down in indecision and chaos, to reject this amendment.

Mr. TOWER. Mr. President, it appears to me that the weight of the argument made by the distinguished Senator from North Carolina is to the effect that because this deals with a partisan matter on which there are likely to be partisan decisions, the absolute majority control of the committee should be in the hands of the majority party.

I think that this is the kind of situation where, because there are partisan considerations involved for the committee to act in what appears to be an objective way, the representation should be absolutely balanced.

What has been raised here is the fundamental question about what kind of precedent we may set.

Is the Senate going to function as a vehicle for the majority party in that body to launch investigations against actions allegedly committed by members of the minority party, with the pregnant possibility that some sort of political benefit will accrue to the majority party? I think that this is a unique kind of case, one in which we should pick our way very carefully because we may be setting precedents here.

At some point in time, conceivably, the Republicans could become the majority in this body. That is a day much to be wished for on the part of many of us, some 43 of us; but I will not comment on the prospects of that at the moment. But it is conceivable that the Republicans could use this precedent in an effort to mount some sort of investigation against alleged acts of members of the Democratic Party, in an effort to embarrass that party.

I do not suggest for 1 minute that this is the motive of my friend of North Carolina. I assign to him only the loftiest motives. I know that he has a judicial objectivity that compels him to want to get at the truth so that justice may be done. But what we must understand here is that we are setting a precedent; and in setting a precedent for Senate inquiry into political business—albeit, business that is of a shady character—we certainly should establish the principle of bipartisanship, so that we can be assured of some degree of objectivity.

There were alleged incidents in the 1964 and the 1968 campaigns, incidents of electronic surveillance, on the part of Democrats against Republicans. There was no public outcry because it was not generally known. What happened this time is that the miscreants got caught, and therefore the matter is one of public knowledge, and indeed should be public knowledge, and indeed those who perpetrated the alleged crime of electronic surveillance of the Democratic National Headquarters should be apprehended, should be tried, should be punished; and no one on this side of the aisle disagrees with that.

No one on this side of the aisle wants to mount any kind of dilatory activity to prevent the adoption of this resolution. We do not face such an investigation with any trepidation. Our hearts do not tremble at the thought of what might be revealed. Our hands and our consciences are clean. The matter is currently being pursued in litigation, and those responsible are being tried and are being punished.

If we want to convey to the people of the United States the idea that this is a bipartisan inquiry that ultimately might lead to legislation to prevent this kind of thing or better enforcement to prevent it, then it should be bipartisan and there should be no doubt, just as when the conduct of a Democratic Member of the Senate was called to question, it was conceived to be wise and just that an absolutely bipartisan committee look into the matter and make its recommendations to the Senate. There was no problem of tie votes in that committee; there was no problem of the committee being unable to do its business. It functioned; it made its report; the Senate acted on

that report; and a vast and overwhelming majority of the Senate agreed in part with that report, and I do not anticipate any such difficulty this time.

But whatever difficulties might result in a committee of even membership as to party affiliation does not begin, in my estimation, to rival the evil that would result from our setting a precedent here that a partisan majority of a select committee could in the future look into the activities of the minority party.

Mr. SCOTT of Pennsylvania. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT of Pennsylvania. Mr. President, the distinguished Senator from Texas has made a presentation with which I believe it would be very difficult to find fault.

The proposal of the minority here is that we are helpless in the hands of the majority unless we are treated with scrupulous fairness. In this matter the choice is simply one between the conduct of an inquiry by a majority under a resolution which is framed in the form of an indictment to which the minority is expected to respond, on the one hand—and an absolutely bipartisan, free-of-political-overtones investigation conducted by an equality of membership on both sides of the aisle, as we have done in the McClellan committee and in the Committee on Standards and Conduct, on the other, open, free, and entirely cooperative investigation would eliminate from the mind of any reasonable person any suspicion whatever of witch-hunts or indictments or unwarranted pursuit of some who may prove to be innocent as well as some who may prove to be guilty.

This is not an appeal for stalemate, quite to the contrary. The minority are perfectly willing to agree that the majority shall have the power to break a tie in any one of several ways they wish, either by the chairman or by an ex-officio person, or in any way in which the majority may wish to be sure that it prevails, so long as we have an equal voice.

What does this resolution do? It is the broadest resolution ever introduced in the Senate, in my recollection. The chairman is empowered with greater authority and greater powers than we have ever given to any chairman. I must say that I cannot imagine a Senator better qualified or better equipped to wield these massive powers than the distinguished senior Senator from North Carolina, in whom we all have confidence, without question. But this resolution is limited to a single occurrence because the majority view here is that they do not wish to know of anything else. This is "See no evil, hear no evil, speak no evil, except the evil we demonstrate, which we will define carefully."

Moreover, in section 3, subsection (11) of this resolution are the widest possible powers to send a hoard of officials amongst the executive department—if I can paraphrase the Declaration of Independence a little—to send a group of staff members, because the committee would be too busy to do all this itself to look into all the raw files of the Government, to look into the FBI files, without waiting until they have been evaluated or determined as to any conclusions found, to look at every rumor made against any person, be he innocent or guilty. Such an investigation into the raw files will turn up various evidences, undoubtedly, of shortfalls in conduct on the part of many people—alleged shortfalls which may be entirely false. It will turn up every sort of material subject to use as blackmail if the particular person who uncovers it is unscrupulous in his person.

This is a power never before given to anyone in the history of our Constitution. It is a power which is more subject to abuse than any other power of which I can think. It is wild, it is unbelievable, that this power is written into this section.

Let us consider, by parallel, the Committee on the Judiciary. In that committee only the chairman sees the finished FBI files. Out of that file much important raw material has already been removed. He sees the person's interview and all the relevant information necessary to pass on the matter before the committee. He is not required to show it to any other member of the committee, although on proper reason shown, other Senators may see it. It is not available to staff members. It is closely guarded by the chairman.

The distinguished Senator from North Carolina and I both serve on the Committee on the Judiciary and we know that on this committee which drafts laws under which we live and abide we have been extraordinarily scrupulous, as, indeed, the Senator from Arkansas (Mr. McCLELLAN) has been in the conduct of his committee business. We do not permit the picking and prying into the filthy cesspools of rumor which lie at the bottom of many a file and which would be a happy hunting ground for the evilly disposed, for the rumor monger, for the person who wishes to leak it to his favorite source.

Skeletons would come tumbling out of the closet; skeletons devoid of fair play. In other words, bastard skeletons would come piling out of these closets, wreaking an immense amount of damage, and for what? Simply so the majority could investigate a single, shabby, discrediting incident which should be investigated. I said that from the beginning. I said that on June 20. There should be an investigation and we should ask the American Bar Association to head it.

My statement would fully include the thought of a senatorial or congressional investigation. Yet, let us get the facts out.

What I am proud of is that the minority leadership, as one voice, as far as I know, have indicated they do not oppose an investigation. The Senator from Texas has spoken, and I praise him for it; the Senator from New Hampshire (Mr. COTTON), and all members of the leadership have indicated they welcome an investigation. We ask only that it be fair and well and truly conducted and that it be to the point.

We also say, "Why not look into 1964?" The Senator from Arizona has frequently pointed out the misbehavior to which he was subjected from many points in 1964 when he was a candidate. Why not look into 1968? Only today a Senator on this side of the aisle said to some people—I had forgotten the incident—that in 1968 I called him; he and I were having a conversation about the elections which had just gone by. I remember the Senator telling his travel plans. I do not remember the intervention and the wording, but he does. That telephone was electronically bugged and somebody cut in and made certain remarks. I had forgotten it. It was after election, but it is an incident that happened in 1964, in November.

There were many other instances, and they could be adduced, but the majority does not want to know what the majority party or its friends or supporters did. "Perish forbid" is their slogan. Perish forbid if we should at any point imply there was at any point anything wrong with the majority party.

No, let us not look into Mr. Tuck and his practical jokes, picking and prying, of his issuance of false statements and the general rhetorical hee-hawing with regard to Mr. Tuck's boyish pranks, always at the expense of his party. Let us find out.

But let us equally find out whether or not virtue is the sole property of an individual, of a party, of a group. Let us find out who is guilty in this case. If we do not believe the courts can find out, let us find out who was innocent. Let us have the Senate make a judgment, if it can make an unbiased one, which, as this committee presently formed, it would have difficulty to find out. Let us try. We will cooperate even if we lose, even if we are drowned out, even if we are overridden, even if the majority exercises the full force of its power because it is afraid to let us go into the 1964 campaign and the 1968 campaign; and that is what is bugging them and not electronic surveillance. That is what is bugging them. That is why they say, "Let us confine this strictly to a careful examination of something where we know the only political benefit to be gained would be gained by us, and let us not put this in the technical 3-D dimension where we can see it against what has long been going on in this country," and that is a lot of undesirable, improper practices by supporters of both political parties, which has been going on for too long.

I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I commend the distinguished minority leader for his appropriate remarks under these circumstances. I suppose that one of the bitter fruits we will reap from the appearance of the lack of impartiality is inevitable further conflict, conflict as to one's motives, conflict as to the scope of the inquiry, as to the narrowness of the inquiry, and other events that may or may not be disclosed in this investigation will inevitably be a part of these proceedings.

I speculate that if this resolution had called originally for an equal division of Republicans and Democrats, for we had ample precedent for doing so in other equally, sensitive matters, we would not have that attitude now growing up. I

think the minority leader has bespoken the attitude that will arise throughout the country. In the final analysis, it is not the Senate that will decide if this should be three and two, three and three, or four and four. We will make the technical determination and ultimately reach a decision. But the American people reach the final decision. I cannot believe for one moment that the American people believe American fair play says that a defendant under a resolution charge of indictment should be tried by a force consisting of three for conviction and two for acquittal. It has been my hope since this matter first arose that the Senate would comport itself in such a way that a situation such as that would not be created.

The American people look to this body to inquire into the full scope of the election process, unfettered by the judicial process, and they expect the Senate to fully inquire into whatever aspect of the matter should be presented to us so the chips can fall where they will.

Just as the senior Senator from North Carolina yesterday professed that his determination would be cold and judicially impartial, I profess to be absolutely neutral in this inquiry, not as a member of the select committee, but as a Member of the Senate. I profess to go into this matter as one Member of the Senate, determined to decide all facts and implications and all the activities, and to ascertain all the patterns of conduct to which Congress may wish to direct itself for remedial action. I profess to be just as diligent in my ambition to prosecute as to be impartial.

I do not suggest for a moment that I or any Republican Member of the Senate has a desire to serve as defense counsel for anyone. If we do not start on an absolutely impartial basis, if we do not start by signaling to the American people that the Senate is doing one of the things it does very well, and that is undertaking a comprehensive investigation of a sensitive matter, if we do not start on the right foot impartially, the American people are not going to judge us on the basis of the resolution, but, rather, on the basis of our motives in starting with this unequal distribution.

I shall not prolong this much longer except to say this: The distinguished senior Senator from North Carolina indicated he did not wish to preside over a committee that could not act because of a stalemate in case of a 3 to 3 division. To begin with, I doubt that that will happen, because I speculate the leadership will appoint people who are dedicated to the proposition that six men will act in concert and that they will be enjoined to act in concert in an impartial investigation of all the attendant circumstances. So I doubt very much that we are going to have a partisan stalemate, if the committee is evenly divided, and if we approach the matter with impartiality.

Next, I noticed yesterday that the senior Senator from North Carolina, I believe very correctly, amended his resolution to delete the legislative reporting requirement of the committee, with the suggestion that it be a fully effective and investigatory committee, and on a matter of this importance it ought not to report legislation to the Senate.

Where is the stalemate in that respect? On the matter of writing a report? Surely not, because it is inconceivable to me that there will be more than one report. There may be six views. There may be five and one views, or two and three, but surely no one will suggest that any member of the committee, no matter what ratio is, will be forbidden from expressing his opinion or his view. So there is no stalemate on reporting. Certainly there is no stalemate on stating views in the report which the resolution requires the select committee to submit to the Senate.

On the matter of issuance of subpenas, which is the next item that would occur to me where there is a potential for stalemate, to begin with, I doubt very much if any member of either party on the select committee would have any objection to any subpena that had the most remote connection or the most minor possibility of developing competent information. I doubt that would happen, but if it did, there are ways far better to approach it than to make the distribution on the committee 3 to 2 and raise the very ugly specter of a partisan inquiry, and one of those ways is to have the chairman, if the Senate so wishes, make the determination on the matter of subpena power.

I would be perfectly willing to say that if there was a stalemate on the matter of issuing a subpena, the chairman's point of view would prevail on the issuance of that subpena.

There may be other possibilities for stalemate, but if there are any, I am not sure I recognize them at this time; but I am sure, Mr. President, that we can find ways to avoid stalemates. There are many, many ways to contrive to avoid a stalemate that I can think of, and all of them are preferable to starting out with a stacked deck.

Bear in mind that the emotion of the debate today is as a mere inconsequence to the emotion of the debate that will rage not only in the committee, but in the Senate and in the country, if we do not conduct ourselves with such scrupulous impartiality, with such a total lack of partisanship, with such an absolute dedication to fairness, that we can face the country with our result as a unified Senate; and I believe we are going off on a very wrong foot if we do not embody that determination in an equal distribution on this committee.

I thank the Senator for yielding.

Mr. SCOTT of Pennsylvania. Mr. President, I will yield to myself for one observation. I do agree with the Senator from Tennessee. One thing we want to avoid in the public mind and in the mind of this body, and that is that we are being subjected to a packed jury. No one wants to do that.

I do commend those who report the news that they examined subsection 11 of section 3 as to the powers of examination to all agencies of Government and all documents, no matter how raw—and raw in every sense—they may be because they run counter to the right of privacy which has been so long advocated in the Senate and the press, and which run considerably counter to the rights of the people affected.

It may be that if this privacy is invaded and if it involves the seccadilloes of a politician, that may be a matter for entertainment, but there are not only politicians here. Let us suppose it involves the jingle-belling of a member of the press around the houses of joy. Then, I submit, there may be a great deal more arousement against the right of privacy.

Look to your rights and look to ours, so we may be justified in what we are saying, and not be portrayed as seeking to delay or prevent anything. We are for it. We are for expediting. We will very likely offer amendments to expedite it. We want it fair. We want it just. We do not want to violate any principle of American jurisprudence by allowing persons to poke into every cesspool that can be found in order to drag up filth on which no proof exists, and no one ought to be exposed to this kind of proceeding. I yield the floor.

Mr. WEICKER. Mr. President, I want to commend the Senator from Tennessee for putting his finger on the real issue of the debate before us, because the real issue is credibility—credibility insofar as the American people are concerned relative to any investigation that might be undertaken by this body.

They will be asking questions. Why is it important to have the amendment of the Senator from Tennessee providing that the committee be constituted on a 3-to-3 basis? Why is that important? I answer very simply this: So the result of the work product of that committee will be believed. That is why it is important.

At the time of the Watergate crisis, at the time of the ITT case, at the time of the charges and countercharges in the last campaign between the various candidates in the Democratic and Republican Parties, polls invariably would be taken as to whether this was an issue in the minds of the American people. You all know the results of those polls as well as I do. As a Republican, let me say I was aghast to learn that in fact these transgressions were not issue with the American people. Why were they no issue? Because, in the mind of the average citizen, they all do it. It is done all the time by both parties. A plague on both Houses.

That is why it ought to be 3–3, so the committee can do its work, and so when it comes forth with the result of its work, it will be believed. But to go into the aftermath with this partisan approach is no better than not to go ahead and investigate as far as the public is concerned.

I am getting a little tired of being at the bottom of the totem pole as far as public esteem is concerned. I think Members on the other side should feel the same way. Yet the way this committee is constituted, the way the whole affair is starting, the committee will do its work, and the result will be a partisan one. Last time it was the Republican Party; this time let it be the Democratic Party. What will result is not the democratic process. Ask the people, especially

the young people, if that is not so. It would be nice to have some work done that had credibility to it. A 3–2 committee renders the work product of that committee a partisan one. I attribute no motives to a 3–2 committee, but that is the way it is. It is partisan, and the work product is meaningless, and the members on that committee are involved in that partisanship on an individual basis.

There is not one of us who sits in this body who did not share, at the time of our youth, the dream of reaching this lofty position in government. At that time it was a young man's dream. Politicians, men in high public places were idols.

That is no longer the case. This system has been smeared and fudged around by everyone, by both parties, and by the press. I know the men and women I work with. They are men and women of honor. And their work product is good. Because there are Watergates and ITT's and whatever anyone wants to bring up does not in my mind change the gleam or shine of this Government. If there is any rot in it, it ought to be rooted out, and it ought to be rooted out by both major parties in equal measure.

This opportunity now confronts us. We have the opportunity now at hand, not to gain points one over the other, but to gain points for the American political system.

Mr. ERVIN. Mr. President, I will make one or two observations. If I had any feeling that three Democrats on this committee or the committee itself would seek to crucify people for political purposes, I would vote against the resolution entirely.

It is a custom in this country to solve most of the problems by majority rule. I ought to be opposed to majority rule because I have died from more lost causes than any other Member of the Senate. However, it is still the only way by which decisions can be made.

The minority has the opportunity to exercise wisdom and convince the majority of the rectitude of its cause. But the decision has to be made by the majority.

The Senator from Texas said that this would establish a precedent. Here is the precedent. Here is the whole committee report that shows the precedent. When the charges were made against Army Secretary Stevens of improper and biased conduct, the Senate—which was then controlled by a Republican majority—set up a select committee to investigate those charges which, like this case, to some extent had some political overtones. They set up a committee of four Republicans and three Democrats.

That is the only precedent we have that I know of concerning a select committee to investigate matters of this kind.

My friends say, of course, that if we set up a committee of three Democrats and two Republicans, some people will criticize it and say that the Democrats are trying to persecute the Republicans. This resolution gives them the right to investigate the truth or innocence of committing improper conduct. It does not charge anyone with improper conduct.

If we establish a mechanism of a committee, the members of which are three Senators who are Democrats and two Senators who are Republicans, some people who are suspicious of all human conduct can say that the Senate wanted to whitewash this whole thing and so they set up a committee under which the committee would be prevented from making any decision or taking any action.

I am opposed to the amendment. I do not say it will accomplish this purpose. However, it would create the possibility that the committee would suffer from paralysis. And I do not think the Senate ought to establish a committee where that possibility exists.

Mr. WEICKER. Mr. President, I would like to comment on a remark made by the distinguished Senator from North Carolina where he commented on his high esteem of the Democratic members of the committee to be appointed.

The point I am making is that it does not make any difference what we think of ourselves. It makes no difference to the American people what the Senator from North Carolina thinks of his colleagues or what the Senator from Connecticut thinks of his.

The fact is that we have an opportunity to restore the faith of the American people in this political process. And the way in which we are going to accomplish that in the most successful fashion is to put the matter in the hands of an equal number of the members of each party and not have the Democrats hitting the Republicans over the head or the Republicans hitting the Democrats over the head in a bipartisan fashion. We will gain absolutely nothing by doing it in that manner.

This partisanship quite frankly has become quite a serious national problem.

Mr. BAKER. Mr. President, I commend the Senator from Connecticut for a very succinct and, I think, very appropriate remark. It is not indeed the final judgment of the Senate, but rather the judgment of the people of the United States that should control as we debate this resolution. It is not too late to do this.

I proferred a suggestion a moment ago to the Senator from North Carolina, and I hoped it might eliminate some of his stated objections to an equal balance on the select committee. That suggestion was to provide that in the case of subpena power, if there was an equal division of votes, that the chairman's point of view would be the prevailing point of view. I did not detect a response from the Senator from North Carolina on that matter. I judge that means that it is not acceptable.

I wonder if the Senator from North Carolina could suggest any other alternative by which we could avoid the stalemate which he fears without creating a distorted effect.

Mr. ERVIN. I would say that the best way to make certain that there will be no stalemate is to have a committee which has a majority on one side or the other. The number on each side would not make any difference to the Senator from North Carolina, as far as that is concerned.

Mr. BAKER. I know it would not make any difference.

Mr. ERVIN. But the Senator from Florida yesterday asked me about the subpena power. And he seemed to be very pleased that the resolution does not give the chairman the power of issuing subpenas without the concurrence of the rest of the committee. As far as I am concerned, I would not want to issue subpenas without the concurrence of the committee.

Mr. BAKER. I would not want the Senator to do so either. However, if there were a committee composed of three members of each party, I would be very pleased for the chairman to have the determination. Would that make any difference to the Senator from North Carolina?

Mr. ERVIN. No. It is my belief that the chairman should be more or less of an instrument to carry out the will of the committee. I would not want to have that authority in the hands of a committee composed of three Democrats and three Republicans. If three Senators did not wish to have a subpena issued, I would not want to have two votes on the question.

Mr. BAKER. Would it not be that way as the Senator proposes the membership of the committee? If there were three Democrats and two Republicans, the Democrats would have three votes.

Mr. ERVIN. A member of the committee should not have two votes, one as a member of the committee and one as the chairman of the committee.

One of the great cases before the Supreme Court, Baker against Carr, came out of Tennessee. And I am in favor of one man, one vote.

Mr. BAKER. I am glad to know that, because I know of an occasion when the Senator from North Carolina and I had a very sharp debate on that matter.

Mr. ERVIN. Yes. However, the Senator has grown wiser since that occasion.

Mr. BAKER. I have never doubted his wisdom. I am happy to have his support now.

I wonder if it would serve any purpose and if we could find a way out of this, because I want to be fair, and I am willing, as far as I am concerned, to amend my amendment providing I can obtain unanimous consent, since the yeas and nays have been ordered, to provide that in the case of a stalemate on subpena power, the chairman's point of view would prevail. I wonder if there are any other things in the mind of the Senator from North Carolina that we could resolve and thus avoid a stalemate, if that is what we are concerned about. What else could we do to eliminate a stalemate?

Mr. ERVIN. I can say that the best thing to do is to follow the precedents established by the Republicans when the Republicans were in control of the committee. They then established a select committee like the one this resolution proposes to establish.

Mr. BAKER. And of course as to the precedent that we had in the McCarthy case of equal representation, and the precedent established in the termination of national emergency, which also has equal representation, and the precedent in the select committee relating to se-

cret and confidential documents, which also has equal representation, plus the Committee on Improper Activities in the Labor-Management Field, which was also of equal representation, as well as the Select Committee on Standards of Conduct, I wonder if it does not serve as a precedent to the Senator on important issues when there is an area of sensitivity, that we present ourselves to the country as an impartial tribunal.

I wonder, then, if we cannot meet this problem of a stalemate, if that is really the sticking point, if we cannot meet it with a subpena power solution, or if the Senator from North Carolina has other problems about which he is concerned.

Mr. ERVIN. Mr. President, the Senator from North Carolina does not want to be entitled to cast two votes. Every other Senate committee is established with a division of membership between the parties roughly comparable to their membership in the Senate, every one of them that is now in existence, except the Senate Ethics Committee.

Mr. TOWER. There are two others.

Mr. BAKER. And the other two I mentioned, National Emergency and Confidential Disclosure.

I wonder in that respect, speaking of appearance to the public, as to the country making a judgment on our fairness, what the situation would be if the Republicans were in the majority in the Senate today, and we insisted on three and two.

Mr. ERVIN. If the Senator will pardon me, that is exactly what they did when they were in the majority.

Mr. BAKER. I think the country would judge that we were trying to serve a political purpose if indeed we insisted on three and two. I think a committee dealing with a matter of this sensitivity ought to avoid the appearance of partisanship, and the only way to do it is by equal division. I think the Senator from North Carolina ought to try to find a way, and I am willing to ask for a quorum call, if he will help me to get past the stalemate.

Mr. ERVIN. I would say the only truly effective way that I know to avoid a stalemate is by the very method that this resolution sets forth.

Mr. BAKER. Does the Senator from North Carolina doubt for a moment that what I have suggested would avoid a stalemate?

Mr. ERVIN. Well, we would have the same situation as if the Senator from North Carolina were the only man on the committee, and he was to make the decisions. I do not want that power.

Mr. BAKER. Mr. President, I am perfectly willing to have the Senator from North Carolina have the tie-breaking vote. If I am willing to do that, I would hope the Senator from North Carolina would be willing to.

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

Mr. BAKER. I yield.

Mr. COTTON. The only reason that the Senator from New Hampshire asked the Senator from Tennessee to yield was that, without pride of authorship—because it did not go very far—it was the Senator from New Hampshire, in the consultation or conference that took place between the joint leadership of both parties, who suggested the expedient of having a 3-to-3 makeup of the committee, and that should there be a tie vote on any subject, the chairman should have the power to cast the deciding vote.

The one thing that I noted was that the attitude of everyone on the other side of the aisle engaged in that conference was completely adamant. The suggestion that an ex officio member could come in and break a tie, and the suggestion that the chairman would have the power to break a tie by having his vote prevail, met with a blank wall.

As far as I am concerned, I think the important thing is to get this committee created. And I want to note this: If we on this side of the aisle wanted to make political capital for ourselves, I think that a 3-to-2 committee would be far preferable to a 3-to-3 committee, because then if any Republican wants to gain political advantage he can cry that "It was a partisan investigation and was brought out for partisan purposes, and we did not have an equal voice," and try to pass that impression out to the country.

In fact, we would be even in a better situation if the Democratic side insisted on having all Democrats on the committee.

As far as the Senator from New Hampshire is concerned, there should be an investigation. I shall vote for this investigation. I would vote for the investigation if every Member on that investigatory committee was from the majority side, because there is one thing that must not be allowed to happen. There must not be any suspicion allowed to go out to the American people that there has been any kind of a whitewash or any kind of a cover-up, no matter who may be involved, where they are found, or how high they may be.

So, regardless of this vote and regardless of the vote on any other amendment, it should be perfectly clear, as far as I am concerned, that I am going to vote for the investigation, but it was, to me, very clear in our conference that the plan is fixed, that the majority are pledged to it, and that this matter of making speeches about these amendments is an exercise in futility.

I simply would say that if you want to continue partisanship on this vital issue, the best way to do it is to let the suspicion go out to the people that this is a weighted committee.

I have absolute confidence in the fairness and integrity of the distinguished Senator from North Carolina, and I doubt if there is a single Member of this body, on either side, who does not have absolute confidence in him. As far as I am concerned, I do not know of any three Senators on the other side, or any five Senators on the other side of the aisle, that I do not have complete confidence in. But the matter at stake is not in whom we have confidence. The matter at stake is public confidence.

I shall, of course, vote for the amendment of the Senator from Tennessee, but when I walked out of the room last night, after some 2½ hours of trying to avoid the necessity of even a debate on this matter, I was perfectly positive that the stage is set. By that I do not mean that the stage is set for an unfair investigation. It could not be so with a man like the Senator from North Carolina as chairman of the committee. But the stage is set for this kind of a set-up, and I find it difficult to understand why it is set. If I were sitting on the Democrat side instead of on the Republican side. I would want it a 3 to 3 committee, with provision to prevent a deadlock or a stalemate. So, as the Senator from Tennessee has so well said it is unfortunate if we start this off with even the faintest odor of politics or political partisanship. I shall vote for the investigation, however it may be planned. I shall vote for it because, in my opinion, if every member of the investigating committee were on the other side of the aisle and they were absolutely unlimited in their powers and free to go into any extraneous matter it would be far better for the American people that there be a complete revelation.

Mr. BAKER. Mr. President, I commend the Senator from New Hampshire for his usual eloquent remarks. I agree with the tenor of his remarks. It will be a great contribution to the perspective of this debate.

The distinguished Senator from North Carolina referred to the so-called McCarthy committee on the 4-to-3 basis. In my opening remarks, I referred to the censure of Senator McCarthy on the basis of 3 to 3—and the date was July 5, 1954, I believe.

It might serve the record to point out to my colleagues that there were two inquiries in the McCarthy case, one was 4 to 3 which, incidentally, was the Army-McCarthy investigation, and the other, as I understand it, was on the censure of Senator McCarthy which was equally divided, 3 to 3.

Mr. ERVIN. Mr. President, that is true. It was equally divided. It only involved the question of whether the Senator had been guilty of disorderly conduct within the meaning of the Constitution and it did not have any other matters to be investigated. The other McCarthy hearing was called the Army-McCarthy hearing where the committee was divided 4 to 3, with four Republicans and three Democrats. It involved political overtones because it involved charges made against that very fine gentleman and Republican, Secretary of the Army, Robert Stevens, and the Department of the Army.

Mr. BAKER. I thoroughly agree with the Senator that there were, in fact, two committees. Since the Senator from North Carolina and I have made statements which appear on their surface to be at variance, I want the record to be clear on that point. There were two committees, the one that voted censure, which was equally divided, and the other one that conducted the investigation into the Army-McCarthy hearing, which was not equally divided.

Mr. President, I have at the desk an amendment to my amendment. The yeas and nays have been ordered and, therefore, I would have to ask unanimous consent before I could modify that amendment, which I would propose to do.

I wonder whether, at this time, it would be in order for the clerk to report the proposed change before I ask unanimous consent.

The PRESIDING OFFICER (Mr. McCLURE). It would be in order, and the clerk will state the modification.

The legislative clerk read as follows:

On page 2, line 11, strike "five" and insert in lieu thereof: "six".

On page 2, line 14, strike "two" and insert in lieu thereof: "three".

On page 3, between lines 6 and 7 add a new subsection as follows:

"(d) In the event of a tie vote in the select committee as to whether a subpena should issue, the position taken by the chairman shall be the prevailing position."

On page 3, line 7, delete "(d)" and insert in lieu thereof: "(e)".

Mr. BAKER. Mr. President, this, as Senators can see, is the embodiment, by modification, of the suggestion I made in our previous colloquy.

I now ask unanimous consent that I may amend my amendment.

Mr. ERVIN. Mr. President, reluctantly, I must object to the request. I do not understand it exactly. I think, maybe, it will not be necessary, even if the amendment is either defeated or adopted.

The PRESIDING OFFICER. Does the Senator from North Carolina object?

Mr. ERVIN. Yes, Mr. President, and I dislike doing so.

THE PRESIDING OFFICER. Objection is heard. The modification is not agreed to.

Mr. BAKER. Mr. President, I have nothing further to say on this amendment. I am sorry that the proposed amendment to the amendment was objected to. The Senator from North Carolina, of course, is entirely within his rights to object. On that procedural point, I will offer this as a separate amendment if my amendment fails.

I yield the floor.

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

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. JOHNSTON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Washington (Mr. MAGNUSON), and the Senator from Indiana (Mr. BAYH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from South Carolina (Mr. THURMOND) 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 Arizona (Mr. GOLDWATER) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 35, nays 45, as follows:

[No. 13 Leg.]

YEAS—35

Aiken	Cook	Javits
Allen	Cotton	McClure
Baker	Curtis	Percy
Bartlett	Dole	Roth
Beall	Domenici	Schweiker
Bellmon	Fannin	Scott, Pa.
Bennett	Griffin	Scott, Va.
Brock	Gurney	Stevens
Buckley	Hansen	Taft
Byrd, Harry F., Jr.	Hatfield	Tower
Case	Helms	Weicker
	Hruska	Young

NAYS—45

Abourezk	Haskell	Metcalf
Bentsen	Hathaway	Moss
Bible	Hollings	Muskie
Biden	Huddleston	Nelson
Burdick	Hughes	Nunn
Byrd, Robert C.	Humphrey	Pastore
Cannon	Inouye	Pell
Chiles	Jackson	Proxmire
Clark	Kennedy	Randolph
Cranston	Long	Sparkman
Eagleton	Mansfield	Stevenson
Ervin	McClellan	Symington
Fulbright	McGee	Talmadge
Hart	McGovern	Tunney
Hartke	McIntyre	Williams

NOT VOTING—20

Bayh	Gravel	Pearson
Brooke	Johnston	Ribicoff
Church	Magnuson	Saxbe
Dominick	Mathias	Stafford
Eastland	Mondale	Stennis
Fong	Montoya	Thurmond
Goldwater	Packwood	

So Mr. BAKER's amendment was rejected.

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 section 1, Public Law 523, 78th Congress, the Speaker had appointed Mr. YATRON, Mr. BYRON, and Mr. MIZELL as members of the National Memorial Stadium Commission, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1, Public Law 86–420, the Speaker had appointed Mr. NIX, Chairman, Mr. WRIGHT, Mr. GONZALEZ, Mr. DE LA GARZA, Mr. KAZEN, Mr. UDALL, Mr. WALDIE, Mr. WIGGINS, Mr. LUJAN, Mr. STEIGER of Arizona, Mr. BROOMFIELD, and Mr. STEELE as members of the U.S. Delegation of the Mexico-United States Interparliamentary Group, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 301, Public Law 89–81, the Speaker had appointed Mr. MAZZOLI, Mr. DULSKI, Mr. CONTE, and Mr. SYMMS as members of the Joint Commission on the Coinage, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 601(a), Public Law 91–513, the Speaker had appointed Mr. ROGERS and Mr. CARTER as members of the Commission on Marihuana and Drug Abuse, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 5, Public Law 420, 83d Congress, as amended, the Speaker had appointed Mr. CAREY of New York and Mr. QUIE as members of the Board of Directors of Gallaudet College, on the part of the House.

The message also informed the Senate that, pursuant to the provision of section 1, Public Law 86–417, the Speaker had appointed Mr. SLACK, Mr. BENNETT, Mr. WAMPLER, and Mr. ROBERT W. DANIEL, JR., as members of the James Madison Memorial Commission, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 1, Public Law 86–42, the Speaker had appointed Mr. MORGAN, Chairman, Mr. JOHNSON of California, Mr. RANDALL, Mr. KYROS, Mr. STRATTON, Mr. MEEDS, Mr. CULVER, Mr. HARVEY, Mr. MCEWEN, Mr. HORTON, Mr. WINN, and Mr. DU PONT as members of the U.S. Delegation of the Canada-United States Interparliamentary Group, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 2(a), Public Law 85–874, as amended, the Speaker had appointed Mr. THOMPSON of New Jersey, Mr. RONCALIO of Wyoming, and Mr. FRELINGHUYSEN as members ex officio of the Board of Trustees of the John F. Kennedy Center for the Performing Arts, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 202(a), title 2, Public Law 90–264, the Speaker had appointed Mr. GRAY, Mr. BLATNIK, Mr. HOWARD, Mr. MCEWEN, Mr. ZION, and Mr. MIZELL as members of the National Visitor Facilities Advisory Commission, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 601, title 6, Public Law 250, 77th Congress, the Speaker had appointed as members of the Committee To Investigate Nonessential Federal Expenditures the following members of the Committee on Ways and Means of the House: Mr. MILLS of Arkansas, Mr. ULLMAN, and Mr. COLLIER; and the following members of the Committee on Appropriations of the House: Mr. MAHON, Mr. WHITTEN, and Mr. CEDERBERG.

ESTABLISHMENT OF SELECT COMMITTEE TO INVESTIGATE AND STUDY CERTAIN ACTIVITIES IN THE PRESIDENTIAL ELECTION OF 1972

The Senate continued with the consideration of the resolution (S. Res. 60) to establish a select committee of the Senate to conduct an investigation and

study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting individually or in combination with others, in the presidential election of 1972, or any campaign, canvass, or other activity related to it.

The PRESIDING OFFICER. The resolution is open to further amendment.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, while many of my colleagues are here, let me take this opportunity to say that I have at least one and possibly two further amendments. I do not expect they will take very long. I hope we can proceed to a rollcall vote on the next amendment in 10 or 15 minutes. I have an amendment at the desk which I ask the clerk to state.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 2, line 11, strike "five" and insert in lieu thereof: "six".

On page 2, line 14, strike "two" and insert in lieu thereof: "three".

On page 3, between lines 6 and 7 add a new subsection as follows:

"(d) In the event of a tie vote in the select committee as to whether a subpoena should issue, the position taken by the chairman shall be the prevailing position."

On page 3, line 7, delete "(d)" and insert in lieu thereof: "(e)".

Mr. ERVIN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, this is the same amendment that I asked the clerk to report in the course of our previous debate as a proposed modification to my amendment, to which the Senator from North Carolina objected.

Mr. STEVENS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, if I may have the attention of my colleagues for just a few minutes, this will not take too long.

This is the same amendment which I attempted to offer as a modification to my previous amendment, which, in effect, simply specifies that in the case of a three and three division of this select committee, in the event of a tie on the matter of the issuance of the subpena, that the position of the chairman shall be the prevailing position. That is the only thing the amendment would do.

The amendment adds the language that, in effect, gives the chairman tie breaking authority in case of a tie in a three and three committee in issuing subpenas.

In previous colloquy I said, and I reiterate now, that if a stalemate really is the bone of contention, if the fear of stalemate is really and genuinely the matter that prevents the adoption of an equal division of this committee, then if there are other matters beside the issuance of subpenas I would be willing to try to work out something to avoid a stalemate. This amendment relates to the issuance of subpenas; if there are others, I hope they are suggested.

On the question of legislative authority of this select committee, it has none because of the amendment of the Senator from North Carolina yesterday. On the question of filing a report, there is no language on whether it should include majority and minority views. I assume the general precedent under legislative reorganization would prevail so that no one's rights would be cut off or added to.

Mr. President, I am honestly seeking a way to avoid the objection stated to an equal division of this select committee. I will not burden this colloquy much further about how the country is going to view this, but I do want to reiterate once more that if we wrap ourselves in the flag of righteousness and claim that we have investigated a matter of grave concern, beginning with a stacked deck, not only will we not have a definitive investigation of this matter but we have lessened the dignity and the effectiveness of the Senate as a body. I think the issue is that broad and that important to our future as an institution.

The Senate should investigate this matter. The Senate is the best prepared of all departments of Government to undertake it. It is far better prepared than the judiciary because we are not dealing with specific indictments against specific defendants; we are not cluttered by the criminal rules of procedure or the civil rules of procedure which prevail in the Federal courts.

We can sweep as far and wide as we wish to make sure that the searchlight of our scrutiny reaches every legitimate nook and cranny. We should get off on the right foot. This amendment provides for a six-man committee, equally Democrats and Republicans, and it provides that in any case where there might be a tie in the issuance of subpenas the chairman would have the right to break the tie.

Mr. ERVIN. Mr. President, despite the good motives of my friend, the Senator from Tennessee, I am compelled to oppose this amendment for the same reason heretofore stated.

This committee, with a three and three membership, would raise the possibility of a paralysis in the action of the committee. The mere fact that the chairman would be allowed to break a tie vote on whether a subpena should be issued would not take care of the issue. Probably other questions will come before the committee for determination: Selection of counsel, determination of members of the staff, what disbursements should be made on vouchers, which one of many areas authorized to be investigated shall be investigated. This would not cure 1 percent of the problems that would probably arise.

Therefore, I ask the Senate to vote no on this amendment.

Mr. BAKER. If there are 100 areas where we might have an impasse—I would hope we could have gotten by the major ones, but if we cannot—then there is one way to change that objection, and I understand it is the only objection of the Senator from North Carolina. The only objection he has made is that we might come to a deadlock, an impasse. I would suggest then that that could be resolved if we said, on all issues, whether subpena power or anything else, the distinguished chairman would cast the tie-breaking vote.

As far as I am concerned, I am willing to do that, if the Senator from North Carolina is willing to accept it on that basis.

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

Mr. BAKER. I yield.

Mr. STEVENS. I rarely participate in debate on the floor, but I would like to say to the Senator from Tennessee that I think he is absolutely correct. It appears to me that the resolution casts those who are in the minority in the Senate as being a portion of the defendants in the case, instead of being a portion of those who are dedicated to finding out what led to the Watergate incident, who was involved, and to turn over every stone it is possible to turn over to expose the total trail of this incident to the American public. I think it is entirely equivalent to the Ethics Committee. I congratulate the Senator from Tennessee in his dedication to try to make it start out as a nonpartisan effort.

I am almost afraid the total result of the debate and of the resolution itself is going to be that we are starting off with a concept that there would be a difference of opinion between Democrats and Republicans on this matter, and it is in fact casting us in a position where we will be portrayed as the attorneys for the defense, which I think is most unfortunate.

I wish there were some way in which we could work it out. I think the Senator from Tennessee has a very good suggestion, which is to give the distinguished chairman of the committee the power at any time to break the deadlock. That would seem to me to be sufficient. But the mere presence of an equal number of majority and minority members on the committee, it seems to me, would assure the public that this is a matter in which the Senate is united in setting forth before the American public the total information available about the Watergate incident.

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

Mr. BAKER. I yield.

Mr. CASE. I am glad to associate myself with the Senator from Tennessee. I hope it would still be possible to change the mind of the majority, and particularly the Senator from North Carolina. It will add so much to the dignity and to the conduct of this committee and to the authority which its findings will carry if they will accept the idea that it should be bipartisan. If they do not, I am terribly sorry, because it will turn into a situation, I am afraid, which, however hard Senators may try, will still have the context of a partisan operation. That is the last thing we want.

It is the last thing I would want if I were a member of the majority here. In a very real sense, from the standpoint of the majority itself, it would be well to have the Senator from Tennessee prevail on this amendment, with any further amendments that the Senator from North Carolina may feel necessary; but I would hope that, on this matter, an

equal division, equal authority, and equal membership on the committee would be accepted. I think it is a matter of very great importance to the Senate as a whole.

Mr. ERVIN. Mr. President, if I had time——

The PRESIDING OFFICER. The Senator from Tennessee still controls the time.

Mr. BAKER. Mr. President, we do not have any controlled time.

The PRESIDING OFFICER. The Senator is correct. The Senator from Tennessee had the floor.

Mr. BAKER. I thank the Chair very much.

I have at the desk now a proposed modification of my amendment, which will require unanimous consent since the yeas and nays have been ordered. Before I ask unanimous consent to modify the amendment, I would ask the clerk to report the proposed modification.

The PRESIDING OFFICER. The clerk will report the proposed modification.

The legislative clerk head as follows:

On page 2, line 11, strike "five" and insert in lieu thereof: "six".

On page 2, line 14, strike "two" and insert in lieu thereof: "three".

On page 3, between lines 6 and 7 add a new subsection as follows:

"(d) In the event of a tie vote in the select committee, the position taken by the chairman shall be the prevailing position."

On page 3, line 7, delete "(d)" and insert in lieu thereof: "(e)".

Mr. BAKER. Mr. President, the net effect of this proposed modification is simply that in all instances where there is any tie, to avoid any possibility of a stalemate in a committee made up of six members, equally divided, the chairman shall have the deciding vote. That is an extraordinary confidence in the chairman of the committee in such a sensitive matter, but I have that confidence. I am not trying to flatter the Senator from North Carolina. I am trying to meet the stated objection that he fears, that an equally divided committee may result in a stalemate. I think this amendment will avoid that.

Mr. President, I ask unanimous consent to modify my amendment in that respect.

Mr. ERVIN. Mr. President, I have no objection to the unanimous consent request, but I want to make a parliamentary inquiry. As I understand it, if the amendment is modified in the way suggested by the Senator from Tennessee, the order for the yeas and nays still stands.

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the unanimous-consent request? The Chair hears none, and the amendment is so modified.

Mr. ERVIN. Mr. President, I am opposed to this amendment. There is some rumor abroad that I may be chairman of this select committee, and the effect of this amendment is to say that I shall control all the disagreements among the committee. It really would not change having one more of the majority party on the committee. It would simply say I constitute two members of the committee, and I do not want to have the power and responsibility, if I were selected to be chairman of the committee. I do not want to act in a dual role and have two votes in the committee in case of a tie. I do not want that power.

I hope the Senate will reject the amendment.

I appreciate the compliment the Senator from Tennessee pays me in proposing this amendment, but I am like Caesar—if I am chairman, I want to refuse the crown.

Mr. BAKER. Mr. President, I appreciate the analogy. If there is any Senator in this Chamber who deserves to be compared to Caesar, I suspect it would be the Senator from North Carolina. But let me hasten to say that he is declining to accept the responsibility he has already gained for himself. As I understand the Senator from North Carolina, he is reluctant to accept the grave responsibility of breaking a tie, but that is infinitely preferable to having a stacked committee of three to two to begin with.

Mr. CASE. Mr. President, if the Senator will yield, I think this is a way out of the dilemma. I understand the modesty of the Senator from North Carolina to judge himself incompetent to assume this great responsibility, but let him vote "No," let him abstain, let him, on the Democratic side, join all of us on the Republican side in doing its good job.

Mr. BAKER. I thoroughly applaud the suggestion. I think it is an eminently practical one.

Mr. ERVIN. I could not vote or abstain from voting on this proposal. I do not think, if I am to be chairman, or if anybody else is to be chairman, I or he ought to be permitted to break a tie vote which is cast by his own vote.

Mr. BAKER. Mr. President, my observation in that respect is that I am far more willing that the Senator from North Carolina have that power than I am for him to have a statutory majority of the jury. I have no fear in that respect. I think that the Senator from North Carolina will be impartial and judicial. But in any case, in his judicial career I very much doubt he would have permitted the impaneling of a jury where there was any taint or suspicion that any juror, let alone two-fifths of them, had already made up his mind—not that they had, but even a suspicion that they had would be enough to disqualify those jurors.

The Senator from North Carolina has indicated on any number of occasions in the last 2 days that he intends to approach this undertaking, if he is chairman, with the cold, calm deliberation that he believes the job requires.

I believe that to be the case. The first obligation of a trial judge, the first obligation of a jurist is to see that there is a fair and impartial jury of his peers and not two-fifths and three-fifths. Mr. President, I am willing for the Senator to have this power. I offer it to him in good faith and, I hope, in good grace. I have nothing further to say on this point.

Mr. President, I yield the floor.

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

Mr. WEICKER. Mr. President, it is difficult to get away from raw partisanship. Given the Constitution, practice, tradition, or what have you, I have no question at all as to the exercise of power because the Democrats have the votes.

The only difficulty is that this is not a matter that belongs to the Democratic Party or the Republican Party. It belongs to the American people. I have difficulty with my own party with regard to what I think is impropriety, just as I do with the Democratic Party.

As has been pointed out so ably by the Senator from New Jersey what is important here is that the American people believe the work product of this committee.

There is a job to be done to once again bring honor to this body and to our profession. I cannot subscribe to any of the high attributes given to Members on the other side who are advocating this particular cause. In the past certainly they have brought dignity, honor, fairness, and bipartisanship to the issue. However, make no mistake about it, they are bringing to this particular issue just the issue of partisan politics, raw partisanship, and nothing more. They can quote all of the precedents in the Constitution that they care to. However, we detract from this body and from the eventual work product that will come forth from the committee's effort.

I will have an amendment after the amendment of the Senator from Tennessee is disposed of which will point out the weakness in the argument of the Senator from North Carolina. For the present all I would say is that I see no reason why the taxpayers' money should be used in this particular case since this is a bipartisan effort. Let the Democratic Caucus go ahead and appoint an ad hoc committee and let them do it and let the work product come from the Democratic Party.

On the other hand, if it is a resolution to achieve something for the American people and root out some of the cancer in the political system in both parties, the work should be done by both parties if it is to be believed.

PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. James Flug, Mr. William Pursley, and Mr. Robert Smith have the privilege of the floor during rollcall votes on this resolution.

The PRESIDING OFFICER. Without objection, it is ordered.

The question is on agreeing to the amendment of the Senator from Tenessee. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. JOHNSTON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Indiana (Mr. BAYH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from South Carolina (Mr. THURMOND) 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 Arizona (Mr. GOLDWATER) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 36, nays 44, as follows:

[No. 14 Leg.]

YEAS—36

Aiken	Cook	Javits
Allen	Cotton	McClure
Baker	Curtis	Percy
Bartlett	Dole	Roth
Beall	Domenici	Schweiker
Bellmon	Fannin	Scott, Pa.
Bennett	Griffin	Scott, Va.
Biden	Gurney	Stevens
Brock	Hansen	Taft
Buckley	Hatfield	Tower
Byrd, Harry F., Jr.	Helms	Weicker
Case	Hruska	Young

NAYS—44

Abourezk	Hathaway	Moss
Bentsen	Hollings	Muskie
Bible	Huddleston	Nelson
Burdick	Hughes	Nunn
Byrd, Robert C.	Humphrey	Pastore
Cannon	Inouye	Pell
Chiles	Jackson	Proxmire
Clark	Kennedy	Randolph
Cranston	Long	Sparkman
Eagleton	Mansfield	Stevenson
Ervin	McClellan	Symington
Fulbright	McGee	Talmadge
Hart	McGovern	Tunney
Hartke	McIntyre	Williams
Haskell	Metcalf	

NOT VOTING—20

Bayh	Gravel	Pearson
Brooke	Johnston	Ribicoff
Church	Magnuson	Saxbe
Dominick	Mathias	Stafford
Eastland	Mondale	Stennis
Fong	Montoya	Thurmond
Goldwater	Packwood	

So Mr. BAKER'S amendment was rejected.

The PRESIDING OFFICER. The resolution is open to further amendment.

Mr. ERVIN. Mr. President, it has been suggested to me by the distinguished minority leader that the resolution should be amended as follows:

On page 2, line 11, strike out the word "five" and insert in lieu thereof the word "seven";

On the same line of the same page, strike out the word "three" and substitute in lieu thereof the word "four";

On page 2, line 14, strike out the word "two" and insert in lieu thereof the word "three".

This would have the effect of increasing the membership of the committee from five to seven, and having four members from the majority and three members from the minority.

This, it seems to me, is a wise suggestion the distinguished minority leader has made to me, and so I will modify the resolution accordingly.

Mr. TOWER. Mr. President, will the Senator from North Carolina yield for a question?

Mr. ERVIN. I yield.

Mr. TOWER. The Senator from North Carolina is himself modifying his own resolution?

Mr. ERVIN. Yes.

Mr. TOWER. Have the yeas and nays yet been ordered?

Mr. ERVIN. No.

Mr. TOWER. I thank the distinguished Senator.

The PRESIDING OFFICER (Mr. MCCLURE). The resolution is so modified.

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 1, insert the following: strike "Presidential election of 1972" and insert in lieu thereof "last three Presidential elections."

On page 2, lines 4 and 5, strike "election" and insert in lieu thereof "elections."

On page 5, line 24, strike "in 1972."

On page 7, lines 17 and 18, strike "the Presidential election of 1972," and insert in lieu thereof "any of the last three Presidential elections."

On page 7, line 19, strike "election" and insert in lieu thereof "elections."

On page 7, line 24 strike "in 1972."

On page 9, lines 2 and 3, strike "Presidential election of 1972" and insert in lieu thereof "last three Presidential elections."

Amend the title of the resolution by striking "in the Presidential election of 1972, or any campaign, canvass, or other activity related to it" and inserting in lieu thereof "in the last three Presidential elections, or any campaign, canvass, or other activity related thereto."

Mr. GURNEY. Mr. President, what this amendment would do would be to broaden the scope of the investigation. The resolution now, of course, has within its scope the presidential election of 1972. This amendment would increase the scope of the investigation to the past three presidential elections, which would include the one in 1968 and the one in 1964.

Before I go to the argument on the merits of the amendment, I should like to make a few general remarks about the whole business of Watergate. As I stated yesterday, and I think nearly all my colleagues on this side of the aisle agree, we are not unhappy about proceeding with this investigation. We would like to uncover as many facts as have not been uncovered and get to the bottom of what happened and who was involved.

But I think one observation should be made, and that is the Watergate affair was really never much of an affair in this last election. It did not figure in the election at all, really. I do not think it changed a handful of votes in any part of the country.

I can speak with some authority on that because one of my jobs since September 1972, following the Republican Convention in Miami, was to act as one of the surrogates for the President in the election and I campaigned in many States and spent much time in my own home State of Florida campaigning continually for a period of 3 months and then extensively for a period of 6 weeks prior to the election. I really never heard anyone say much about the Watergate affair. If it ever was raised, it was raised in this fashion, "Well, that is another one of those political wing-dings that happen every political year. We understand what is going on. People are playing politics and political games. Republicans are spying on Democrats."

I am sure that if the Republicans knew what was going on in the Democrat camp, the same thing would be happening over there.

I think another very interesting point in this whole Watergate affair is how certain of the news media tried to make a tremendous political issue out of it. I recall that CBS ran a continuous series night after night after night on the Watergate, trying to pump it up into something that might make the Democrat candidate something to hang on to, like a strap hanger—and certainly he needed it—no question about that. But in spite of all this drummed up interest in Watergate, of course it played no part in the election. People really did not think much about it at all.

One of the interesting things, of course, was what the pollsters had to say or found out about it.

The Harris poll ran a poll less than a month before election, during the height of the Watergate affair—it was about the middle of October—and I would like to refer to some of the results of that poll because I think they are interesting and show us that people really did not think much about it.

Seventy-six percent of the voters polled—and this was an in-depth questioning, taken nationwide in one of the larger polls on the whole election process of 1972—a little better than three-quarters of the voters, all those who were polled, agreed that they know about Watergate but were not following it closely. They were interested in it, but then, by a margin of 70 percent to 13 percent—of course, there were some that did not express an opinion on this—but the 70 percent of those polled said that the wiretapping of Democrat Headquarters was a case of political spying.

Moreover, a very large percentage of them dismissed it as being no encroachment on civil rights. Sixty-two to 26 percent of the voters polled said they were not worried about civil liberties. Fifty-seven to 25 percent said it was political spying, a common occurrence in politics especially around campaign time.

The same poll, on another matter, which I suppose is connected with Watergate, the campaign contribution aspect—there were many charges that the Republicans and the Committee to Re-

elect the President were receiving huge amounts of money from special interests and from business and were concealing the amounts, and that was going to make a great difference in the campaign—showed that only 18 percent of those polled gave any credence to that charge. They did not believe it, either.

So, Mr. President, I make these general remarks simply to point out two things: One, that the Watergate affair was really never that big as a political campaign issue. But the other point, so important, is that the voters all across the country thought this was a practice that both political parties indulged in during political campaigns, presidential campaigns, or other campaigns.

So that is why I think this amendment is in order. If we are going to give objectivity to this investigation and its final report, whatever we plan to do by way of recommending legislation, it seems to me it must be done with a bipartisan—I was going to say nonpartisan manner—I guess I should probably have used that expression—but at least a bipartisan tinge or aroma to this whole thing. I do not know that we can do that exactly, zeroing in purely on the Watergate, which is obviously oriented in one direction. That is one investigation of spying, and on the other we should seek to find out what happened in the other elections.

What are we trying to do here, anyway? We are trying to find out what happened in the Watergate affair, yes. That is the No. 1 objective of this. But not the chairman, not the author of this bill who, certainly, I hope, will be chairman of the committee when it is appointed. I feel very strongly that his object is broader than just the Watergate affair itself but to find out generally what happens in political spying, bugging, and surveillance, and all the rest of the shenanigans that are sort of some of the sideshows in our political campaigns. If we are going to make an honest contribution, to find out how we can improve political campaigns and certainly cut down on this aspect of it, then we should have the investigation as broad as we can make it.

There is no one in the Senate, all 100 Senators and, for that matter, all 435 Members of the House of Representatives, who would not say, if they were queried somewhere where they would not be quoted, that both political parties do that, Democrats as well as Republicans. We are all at fault to a certain extent. I have heard some observations made that we, Republicans, are not nearly so good at it, or else we would have more representation in the House and Senate. So the other side must be more effective than we are. But, be that as it may, whether one is better at spying than the other, I think it is a case where both political parties, candidates of both political parties or their followers—in more cases it is the followers than the candidates themselves—do do these things that most of us would prefer not to see done.

I would think the best way to find out all we can about this and get all the knowledge we can garner and learn all the tricks of the trade, would be to investigate not just one incident but more than one incident and make the investigation as broad as we can make it, which as I say, certainly should include the two prior political campaigns, the one in 1968 and the one in 1964. Incidentally, that certainly would be a very fair bipartisan approach, because the losing candidate in 1968 is a Democratic Member of this body and the losing candidate of 1964 is a Republican Member of this body. So I would think that would show the greatest sense of impartiality and objectivity, to get into those campaigns and find out what happened there, also.

The reason for offering the amendment—and I want to make this as clear as I can—is not to try in any way to make a donnybrook out of this matter or to try to make it a strictly "You did this" and "No, you did that" matter. That is not the point of it. The point is to broaden this whole business so that we can get some knowledge of what does happen in these campaigns and from there hopefully, come up with suggestions and legislation, and perhaps we may do away with some of our problems.

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

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the Senator from Florida is to be commended for offering an eminently fair amendment.

I note that the function of this committee is to determine whether, in its judgment, certain occurrences which may be revealed by the investigation and study indicate the necessity or desirability of the enactment of new congressional legislation to safeguard the electoral process by which the President of the United States is chosen. Considering that, it seems to me entirely relevant to look into the campaigns of 1964 and 1968.

As a matter of fact, less is known about what happened during those campaigns than what happened during the 1972 campaign with respect to electronic surveillance. There have been strong indications and evidence and assertions by people in responsible places that there was, indeed, electronic eavesdropping in those two campaigns. It was never involved in any litigation; it was not publicly brought to light, except to the extent that it may have been written about by a reporter or two. I do not know. I do not recall seeing any press accounts of it.

It seems to me that we might even show some greater degree of interest in what might have happened in those campaigns which is not widely known and is a matter on which we have little knowledge than in a matter on which we have a great deal of knowledge, which has been and still is the subject of litigation, with the courts and the prosecutors still in business on the whole issue of the Watergate.

Of course, I hope that this committee will not engage in any kind of activity which might prejudice the rights of any people currently involved, defendants involved, in that matter, or people who might become involved in the future.

In any case, we do know more about what went on in the 1972 campaign, and we do not know what went on in 1964 and 1968—at least, not general knowledge.

I think that if the majority were to accept this amendment, it would tend to negate almost any claim of partisanship that could be made against the committee. It would be adequate evidence of impartiality and a genuine desire to get at the whole matter of electronic surveillance or other illegitimate acts that might in some adverse way affect the electoral processes in the selection of the President of the United States.

Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. TOWER. I think we would lay to rest many of the fears of partisan consideration if this very wise amendment by the distinguished Senator from Florida were adopted.

Mr. ERVIN. Mr. President, to accept this amendment would be about as foolish as the man who went bear hunting and stopped to chase rabbits.

The Senator from Texas has quite well said that there have been no charges of any improprieties in 1964 and 1968; but he says that we should take them into consideration so that we can discover if there is any basis for such charges.

On the contrary, the resolution undertakes to investigate matters that are fresh, and are connected with the presidential campaign of 1972. From the night of June 16, last year, when five men were caught redhanded in an act of burglary in Democratic National Headquarters, in the Watergate building in Washington, down to the present moment, the news media of all kinds have had articles dealing with charges and insinuations of one kind and another, of vast and illegal or improper or unethical conduct in connection with this one election.

I have never seen any charges made about the election of 1964 or the election of 1968. I think it would be a tragedy to try to dilute the efforts of the committee to be established by this resolution, if it is adopted, to investigate matters concerning which there is no concern or apprehension and about which no charges have been made.

So I trust that the Senate will reject this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and Mr. ABOUREZK voted in the negative.

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

The PRESIDING OFFICER. The rollcall is in progress.

The assistant legislative clerk concluded the rollcall.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi

(Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Wisconsin (Mr. NELSON), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. JOHNSTON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Indiana (Mr. BAYH), and the Senator from Nevada (Mr. CANNON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from South Carolina (Mr. THURMOND) 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 Arizona (Mr. GOLDWATER) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 32, nays 44, as follows:

[No. 15 Leg.]

YEAS—32

Aiken	Curtis	McClure
Baker	Dole	Percy
Bartlett	Domenici	Roth
Beall	Fannin	Scott, Pa.
Bellmon	Griffin	Scott, Va.
Bennett	Gurney	Stevens
Brock	Hansen	Taft
Buckley	Hatfield	Tower
Case	Helms	Weicker
Cook	Hruska	Young
Cotton	Javits	

NAYS—44

Abourezk	Haskell	Metcalf
Allen	Hathaway	Moss
Bentsen	Hollings	Muskie
Biden	Huddleston	Nunn
Burdick	Hughes	Pastore
Byrd,	Humphrey	Pell
Harry F., Jr.	Inouye	Proxmire
Byrd, Robert C.	Jackson	Randolph
Chiles	Kennedy	Schweiker
Clark	Long	Sparkman
Cranston	Mansfield	Stevenson
Eagleton	McClellan	Symington
Ervin	McGee	Talmadge
Fulbright	McGovern	Tunney
Hartke	McIntyre	Williams

NOT VOTING—24

Bayh	Goldwater	Nelson
Bible	Gravel	Packwood
Brooke	Hart	Pearson
Cannon	Johnston	Ribicoff
Church	Magnuson	Saxbe
Dominick	Mathias	Stafford
Eastland	Mondale	Stennis
Fong	Montoya	Thurmond

So Mr. GURNEY's amendment was rejected.

The PRESIDING OFFICER. The resolution is open to further amendment.

Mr. TOWER. Mr. President, I call up my amendment, and ask that it be read.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 13, line 23, insert at the end of section 6 the following "Not less than thirty-three and one third percent of the monies made available pursuant to this resolution for the purpose of retaining or employing personnel shall be made available to the minority members of the select committee".

Mr. TOWER. Mr. President, the purpose of this amendment is to simply assure the minority of something approaching adequate staffing. Actually, the minority will have more than one-third of the membership of the committee, and there would be a requirement that they have at least one-third of the moneys available for direct compensation for personnel on the committee.

I think it goes without saying that in a matter of this sort, certainly minority staffing is eminently desirable. I know there are many standing committees of the Senate that work on substantive matters that have staffs in which the majority, and minority staffs are not readily identifiable; they work for all. There are several committees like that. But if the argument of the Senator from North Carolina that the majority members be a majority on the committee is valid, then it is equally valid that there should be adequate staffing for the minority members of the committee.

The amendment I have offered is in the spirit of the Legislative Reorganization Act, which requires that two out of six of the professional personnel be members of the minority. This amendment would be in the spirit of the Legislative Reorganization Act.

It would be my hope that the distinguished Senator from North Carolina and his colleagues would accept the amendment.

Mr. ERVIN. Mr. President, this committee is supposed to investigate the same things. It is not supposed to have two separate investigations, one conducted by the four majority members and another by the three minority members. They are supposed to investigate exactly the same thing.

I see no reason to put in a resolution of this kind, something that has never been put in a resolution establishing a select committee in the history of the U.S. Senate, so far as I can ascertain.

If the minority members felt that they must act as sort of counsel for the defense for some of these parties, this proposal might be appropriate. I do not think that is their function. I think it is the function of the majority and minority members to investigate identically the same thing, to determine what the truth was with reference to these matters.

I oppose this amendment. I recognize that minority members of a committee should have some assistants to enable them to keep up with what the committee is doing, and I will assure the Senate that if this resolution is adopted and I should become chairman of the committee, I will do everything I can to see that the minority has equitable representation.

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. ERVIN. I yield.

Mr. GRIFFIN. What does the Senator consider equitable, if provision for a third of the committee staff is not equitable?

Mr. ERVIN. I will say to the Senator that I do not know what it is until we get down to discussing the matter. I am not able to make that decision. I did not think I had to make it here today, because such a provision has never been put in any resolution establishing a select committee before in the history of the U.S. Senate. So I am not in a position to make that decision.

Mr. GRIFFIN. It is already in the law, in the Legislative Reorganization Act, as to all standing committees.

Mr. ERVIN. I disagree most emphatically with the distinguished Senator from Michigan.

All the Reorganization Act says is that standing committees of the Senate shall have six professional employees and that two of them shall be assigned to the minority. It does not say they will have one-third of all the remainder of the people who work for the committee.

Mr. GRIFFIN. That certainly establishes the spirit——

Mr. ERVIN. I cannot understand why the Senator from Michigan thinks it should have two separate investigatory staffs.

Mr. GRIFFIN. Well, if the Senator will permit me, earlier in his argument today he referred to a committee that was established when Republicans controlled the Senate—a committee which was chaired, as I understand it, by Senator McCarthy. I was not here at that time, but I seem to recall, that there was a minority counsel of the committee representing the Democrats; his name was Robert Kennedy.

Mr. ERVIN. I never made any reference to any committee chaired by Senator McCarthy.

Mr. GRIFFIN. I thought he did earlier today.

Mr. ERVIN. No, not today. I mentioned two so-called McCarthy investigations, one of them the Army-McCarthy hearing, which was investigated by a committee headed by Senator Karl Mundt, and the so-called censure committee, which was headed by Senator Watkins of Utah. This amendment says it would be divided down at least to 33 percent, even in cases of employees who are purely clerical, and there is nothing in the Reorganization Act to that effect. I can assure the Senator that I will give the minority adequate assistants.

Mr. GRIFFIN. But that would be something less than one-third, I take it?

Mr. ERVIN. I do not know what it would be. I did not think this point would ever be raised, because since the time George Washington took his oath of office as President of the United States in the first session of the first Congress of the United States assembled, such a proposal as this with reference to any select committee has never been made. I did not anitcipate it. Therefore, I did not study

in advance what would be equitable. But I assure the minority that I shall certainly see that they get an equitable, reasonable proportion of the staff. But I will not accept any kind of theory that we are going to have two investigations conducted by this committee, one on behalf of the minority members and one on behalf of the majority members. I think there should be one investigation for the entire committee.

I ask the Senate to defeat this amendment.

Mr. TOWER. Mr. President, certainly I am really amazed, because what we have asked for here is certainly not unreasonable. No one has envisioned in offering or speaking for or supporting this amendment two separate investigations—one conducted by the majority and one by the minority—any more than we offer separate legislation by the majority and minority or reports out of the committees. It does not happen.

What we are suggesting here is that the minority be adequately staffed. It has already been established that we are going into politically sensitive matters. We are establishing a precedent here of using the Senate of the United States as a vehicle for the investigation of alleged political unethical conduct of members of another party. No one can tell me that anyone who views this objectively is going to say that this thing is completely fair and impartial and objective, if we are not even going to establish the right of the minority party to have adequate staffing.

We have only asked for three, and that is indeed in the spirit of the Legislative Reorganization Act. I know it is not spelled out by the letter of the act, but it is certainly in the spirit of that act.

I say that the Senate would reflect great discredit on itself if this amendment were rejected. I think it is going to be far more difficult for the majority to make a case that this is a fair and impartial investigation if we are going to be denied adequate staff on the minority.

Mr. STEVENS. Mr. President, I again join with the Senator from Texas. I think the Senator from North Carolina should look to the past and should look to other times and the size of the committee staffs in the period he is talking about.

Since I have returned, I have heard a hue and cry for reform of the Congress. And if there is any one area where there is probably no question about the disparity in the ability of individual Members of the Senate to conduct their business, it is on the staffs of the committees. We ask for one-third of the staff support on a committee that will have, as outlined, two of the five members from the minority. That is too little. We should have 40 percent of the committee support. We should have the ability to know that the people who are working with the Republican members are working with them.

I fully believe in the concept of a professional staff. However, this is turning very much into a bipartisan concept that I personally abhor. I was prepared—and I told the minority leader that I was prepared—to serve on a committee that was balanced, three members to each side, in which the Senate was going to investigate this mess. However, if it is the Democratic Party that is going to investigate the mess, then I join the others in saying that the Democratic Party ought to investigate it.

I have an amendment that would delete the Republican membership on the committee and let the Democrats investigate it if they wish to do so. However, I thought that I was a Member of the U.S. Senate and that the Senate was obligated to investigate this.

It is highly improper in my opinion to turn it into such a partisan political maneuver. It seems to me that we are running the 1976 campaign in 1973. But if we are professional Members of this body, we ought to have a professional staff on an equal basis. And even with a proportionate distribution, the staff of the majority would have 60 percent of the staff. And I think that would be sufficient.

As we look around at some of the members of the professional staff and the full committee staffs, we can find instances where there are more than 100 staff members and we have a minority staff of six who serve the minority.

If anyone in the United States can expect us to do our share and carry our load under these circumstances, I do not see how it can be done.

I have called on some of my friends to turn to an organization such as Common Cause and call the attention of the American people to what is going on.

When I came to this town in 1950 as a young lawyer and watched the McCarthy committee, I abhorred some of the things that they did. However, I still noticed that there were minority staff members and what they did.

When I was a practicing lawyer, I know that there was a minority staff and they were fairly well balanced. However, in the last 5 or 6 years, it has gotten considerably out of balance. This is what is wrong with the U.S. Senate.

When people ask me what should be reformed, I tell them that we ought to give each Senator staff to perform the services that he has to perform.

We are equal in the Senate when it comes to voting, but not in the committee.

This committee will be nothing but a political witch hunting committee unless there are some changes. I say that advisedly, as one who has been in the middle of the road in this body. I have never seen anything that will turn this Senate around and split it as much as this committee will if it continues to be constituted as presently outlined.

Mr. COOK. Mr. President, I have been listening to the debate. What bothered me was the colloquy between the Senator from North Carolina and the Senator from Michigan, because the Senator from North Carolina said he would make the decision, he would see to it that there was equitable representation on the part of the minority, he would say what kind of representation they would have, and he would see to it that certain staff would be made available.

I must say that I have heard about the seniority system in the U.S. Senate. I lack a great deal of seniority. However, if there was ever an opportunity to prove that seniority is just about as right as it can be, this is the time. For one individual to say that he can determine how the $500,000 that will be appropriated is going to be handled from the beginning to the end would not do so. I can only plead pauperism and say that even the public defender has staff, as does the Commonwealth attorney.

Mr. President, let us proceed with at least some degree of legal logic. We do not have to play games with what has been done since the time of Washington. We may be able to play games with regard to the Constitution in this regard. And we might even do it in the case of the Constitution. However, I would hope that the Chief Justice of the United States would not say when he goes into that room, "Here is what we are going to do. And here is how we will do it." For him to say whether they are adequately staffed on the committee is rather shocking to me.

I will tell the U.S. Senate as a ranking member of the Committee on Rules and Administration what shape we are in on the Republican side. I hope that Common Cause will listen.

I say to the Senator from Alaska that we can look at the staff of the minority and we will find 16 percent of all of the staffs are on the minority side. Some committees are different. Some committees are even over and above the provision of section 202 of the Legislative Reorganization Act. And one of them is the Public Works Committee, chaired by the Honorable JENNINGS RANDOLPH of West Virginia. But on some committees there are 24 members of the staff and not one minority staff member. And that is not uncommon. So I can only say that when people listen to this debate and to who is prepared and who is not prepared, they will understand it. But that does not mean that the minority party ought to be prepared unless it does it on its own.

I can only say that if we find ourselves in a position where we are Members of the Senate and on a committee that is going to be established by this body and that this is the decision that I will make, then I will say to the Senate that it is seniority at its worst. And it ought to be looked into very seriously. It ought to be debated for a long, long time.

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

Mr. COOK. I yield.

Mr. ERVIN. Let me confess that the inexact language I used rightly subjects me to the verbal chastisement which the able and distinguished Senator from Kentucky has given.

What I meant to say and, as the Senator has pointed out, I probably failed to say, is that if I were a member of the committee I would do everything I could to persuade the committee to make a reasonable allotment of staff to the members of the minority, and that is what I intended to say; but perhaps I phrased

it somewhat inexactly, and, therefore, I accept in a contrite spirit the very eloquent chastisement which the Senator from Kentucky has given me.

Mr. COOK. I say to the Senator from North Carolina, and he knows this, that without any equivocation this Senator has all the respect in the world for him. I accept those words, and I am delighted that they are in the RECORD, because that means that there will be a decision.

Unfortunately, again I say to the Senator from Texas—and that is why his amendment is before this body now—that decision will be made by the majority. And even with all of the pleading of the Senator from North Carolina, if the other two members decide that the minority shall have nothing, then the minority shall have nothing.

Mr. ERVIN. Oh, if I vote with the minority on this point, they will have a majority on their side.

Mr. COOK. I must say to the Senator from North Carolina, the decision will not be made by the four, but it will be made by the three, and if the three decide or the four decide 3 to 1, then that will prevail. So I would not suggest that it will not be done as a body; it will be done by the four who constitute the majority, and I think even then, the Senator from North Carolina will agree that on any committee in the Senate of the United States, when it comes to organization and when it comes to what kind of staff will be made available, that decision is not made by the committee as a whole, but it is made by the majority side of the table; and the majority side of the table can vote with one vote in distinction between them, but they do not go join the other side to see that it is overcome, and I think the Senator from North Carolina will have to admit that.

Mr. President, I yield the floor.

Mr. COTTON. Mr. President, a great deal has been said in the Senate this afternoon about establishing precedents. I agree with the other Senators who have addressed themselves to this amendment. I think all of them on our side have expressed their confidence in the fairness of the Senator from North Carolina repeatedly. But I found myself a little shaken by the opposition to this particular amendment.

If I read this resolution correctly, as far as the resolution is concerned, the minority members of this select committee would not have even the right to a minority counsel to advise them; and I cannot conceive of the Senate now ceasing to be partisan. Frankly, I had not expected these other amendments to be adopted, but I cannot conceive of the Senate establishing that kind of a precedent.

I am confident that the Senator from North Carolina would give us a minority counsel; but it should not be given to us, it should be a matter of right. This is an extremely serious investigation, and it is essential that the people of this country be satisfied with it. For the first time, I think, since I have been in this body with the Senator from North Carolina, whose ability I respect so much and whose integrity I respect so much, he has made a statement I cannot even comprehend. That the mere fact that the minority members of a staff of a select committee that is dealing with something that you can talk all you want to and whitewash all you want to, is partisan, if the minority members have anything to say, it constitutes two separate investigations. If it were anyone other than a great constitutional lawyer, I would have to characterize that as nothing but nonsense.

I would take the Senator's word on this matter of toil, but it is not a matter of taking someone's word. It is not a matter of putting a crumb on the table. It is a matter of establishing a precedent and maintaining the precedents of the past that at least the minority members of such a committee are entitled to a minority counsel. They are also entitled to assistants in reasonable proportion to such assistance as they need to discharge their duties, and it should not be a matter of a gracious gift from anyone, it should be a matter of right and justice, written right into this resolution.

Mr. SCOTT of Pennsylvania. Mr. President, will the Senator yield at that point?

Mr. COTTON. I yield.

Mr. SCOTT of Pennsylvania. I think we can see now where we are at and where we are getting.

What we see is the power of the majority which, first of all, says that you cannot have equality in a Senate decision on a matter of ethical conduct and proper standards, and a majority which says that you must give them unheard of power beyond that ever granted to another committee; that you must allow them to go where they wish and look for whatever they want, and pursue any rumor or unsubstantiated allegation to the point where they would hope that the Muse would rest on the rumor rather than on substance; and now, a further blow to the equity of the situation, in their refusal even to admit that under the Reorganization Act, which we voted on and passed, there is contemplated an equitable division to the minority.

We are 43 percent of this body. In order for the majority to work its will, it insists in its division of professional staff, that the minority shall have 33⅓ percent, and not the 43 percent which our representation entitles us to and which the people of the United States voted, in their own exercise of their judgment, should constitute the Senate of the United States. We are to be denied the assurance that we will be provided for under the statutes of this land and under the equitable distribution intended to be assured by that act.

So now we are going through the processes of power personified, the process of overweening arrogance exceeded even to a point where they do not wish us to be adequately equipped to determine the truth or falsity of the allegations of witnesses.

That is going pretty far, and, Mr. President, it seems to me it is going entirely too far. Go ahead and work your will; tell the people of the United States that the minority has no rights; that your concern for minority rights does not extend to the Senate; that Senators have no minority rights; that we have no civil rights; that we have no rights except to abide by your procedure as you go ahead with your inquisition into rumor, into substance or lack of substance, and to follow wherever your whim listeth.

That seems to me to be not quite right, and I regret very much that we cannot even agree on this. I do not think the actual hiring of assistants is what is at issue here, because much of that could be worked out depending on the good will and what the British call the grace and favor of the chairman. What we are arguing about is a very important principle: Is the law going to be followed? Is the Reorganization Act, in word and in spirit, to be upheld? Are we going to be given any chance whatever to bring out what may be important information bearing on the whole political process of campaigns and elections?

Well, it seems, we are not. If we are not, perhaps we should leave the whole thing to the majority. Let them hold their proceedings. Let them be as "star chamber" as they wish to be about it. Let them make all the charges they want. Then let the United States see for itself that what is going on is not a bipartisan inquiry in support of legislation but a partisan political effort to extract the last bit of juice from an elready considerably squeezed lemon—and lemon it is, and I make no defense for it—lemon it is. To extract the very last citric benefit from a situation which should be approached by this body in an even, equitable, judicious, and judicial examination of the truth. That is all we are asking for here.

It is obvious that in vote after vote, what we are getting is a determination to ride us down, to roll us over, to seek the maximum political benefit which can be obtained from a single incident, without the slightest scintilla of curiosity as to what may have happened at another time and another place in other elections.

If that is fair, Mr. President, then, indeed, this body has descended to a very, very unfortunate nadir.

I thank the Senator.

Mr. ERVIN. Mr. President, I wanted to offer an amendment to the Tower amendment——

Mr. BAKER. Let me make these remarks briefly first, then I will be most happy to yield the floor so that the Senator from North Carolina can do that.

Mr. President, in furtherance of the point developed by the distinguished minority leader, "Where are we at?" I recall yesterday he predicted that unless we came to terms with absolute objectivity, impartiality, and no partisan inquiry, the whole matter would evolve into a great shouting match, it would engage us in the fiercest sort of political strife, and create a great deal of confusion.

I have not stated that with the exact precision of the distinguished Republican leader but I believe that is the burden of his summary.

We are now at that place where, demonstrably, there is uncertainty in our minds about the fairness, the impartiality, the appropriateness of the inquiry into which we are about to launch.

I can conjure up an entirely different

scenario in my mind that might have taken place, beginning yesterday, had we not been met with the adamant refusal of the majority to yield on a single point.

I wish that we had been willing to follow the precedents—and there are ample precedents—for equal distribution and numerically equal representation on this select committee, but instead of that, in this debate, we have had a series of amendments in which a modicum of representation on an equal basis was rejected.

We would have had genuine agreement and generous statements on both sides of the aisle that we as Republicans and Democrats together, all as Members of the Senate, sharing the same oath of office in support of the same Constitution, would pledge ourselves, our time, and our energies to get to the bottom of this affair and to find out and learn what the facts are, to let the chips fall where they may, and to imply at least that the Republicans would be as hard, if not harder, on Republicans than any Democrats ever thought about being in this sort of inquiry.

I believe that is the scenario that would have taken place and that we would have had a marvelous situation in which to commence this inquiry.

Mr. STEVENS. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I yield.

Mr. STEVENS. I am glad the Senator mentioned that because I think the majority party has entirely misread the attitude of Members of this body on this side of the aisle.

So far as I am concerned, I would serve on a 3–3 committee because, as a past U.S. attorney and prosecutor, I would like to assist in removing this blot on the Republican Party, with which I have been associated for so long.

But if I am going to be placed in a position where I would serve on a committee where I did not have assistants, where it started with a political bias already in, I do not think it would do any good at all, in order to try and correct this dastardly deed that took place.

I still do not know why they broke into the Republican headquarters—Democratic National Headquarters, by the way. [Laughter.] That would be the last place I would look for secrets. But as a practical matter, I would certainly like to find out what they were doing there and I would like to do it on the basis of political equality and on the basis of being a Member of the Senate, and not as a member of a committee where you have a stacked deck before you start.

Mr. AIKEN. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I yield.

Mr. AIKEN. I should like to clarify the situation to which the Senator from Alaska just referred. I also would like to know why they broke into the Democratic headquarters. I was reading in one of the local newspapers which finally listed six or eight cases where Republican offices had been broken into. They were all broken into by hoodlums in search of money.

Mr. BAKER. I thank the Senator from Vermont.

I hope that the Senator from Pennsylvania (Mr. SCOTT) will not feel offended and that the Republican leader will not mind if I recall a story that he stated in that respect. I believe that the rhetorical slip of the tongue by the Senator from Alaska (Mr. STEVENS) about breaking into Republican headquarters brings to mind the story that the Senator from Pennsylvania related, that he was once Republican National Chairman and that he could not recall ever having had anything that anyone would want to steal——

Mr. SCOTT of Pennsylvania. Still do not.

Mr. BAKER. And he still believes that story now.

I reiterate what the Senator from Alaska has so ably said, and which I honestly believe every member of the minority believes. Assurances will be given on this matter, if we proceed on the basis of a clear, fair, objective inquiry into what happened, because the Democratic Party may have something of a short-term gain politically by trying to embarrass Republican officials; but the Republican Party in the United States has a lot more to gain by expunging that spot from its reputation. And we will do that, but we will not do it at the sufferance of the majority who stack the committee, who deprive us of staff potentiality, and who create the initial impression that it is something other than an objective inquiry.

I think that this scenario I have tried to describe would have occurred. I hope it can still occur, but the chances are slim of any wholesome cooperation into this inquiry, and we will be, I fear, greatly weakened and dis-served from what we have seen in the past day and a half.

"Where we are at" is the question, as the minority leader has pointed out. Where we started out was with 2–3. We tried to go to 3–3. We tried to give a tie-breaking vote to the chairman—to give a tie-breaking vote to the chairman in case of any tie vote. Then we went to 3–4. We could not agree on how we would handle the date and the scope of the inquiry, whether 1972 or any other time.

Now we have the question of staff.

We hear a lot of talk about the President's being in the "splendor of the isolation of the White House" and a "captive of his staff," or the bureaucracy being an autonomous agency of Government that is responsible to no one.

The Senate is frequently a captive of its staff. I doubt there is a man in this Chamber that will deny that the staff has extraordinary power in the course of our deliberations and the staff's efforts to help us in the discharge of our duties simply because we have such a diverse role to play and so many things to accommodate that the staff must be called upon to act, in many cases, almost independently. So it seems to me that if we are ever to protect against that in sensitive matters we have to have a clear delineation of staff responsibility.

Mr. President, I said that I thought the chances of having an accommodation had been dashed. I do not think they have been destroyed. I think we can still do that. It will take some doing, but we can.

But this staff business I believe to be as important, if not more important, than any other item we have been talking about, including the 2–3 distribution, or the 4–3 distribution. I believe that we have got to find a way out of this dilemma.

I recall that in the McCarthy hearings, which have been referred to, an independent counsel was hired, a distinguished trial lawyer from my home city in my State, Ray Jenkins, who represented the committee. I recall that there was private counsel for the parties who were involved. But I cannot even conceive of that undertaking having been done by a majority staff, even though the staff at that time would have been a Republican staff; and I cannot conceive of this being done that way.

The gentle remonstration of the Senator from North Carolina that he will do the right thing when it comes to staff reminds me of some of the sharp traders in Tennessee and Kentucky and other States who aways put you on notice that your pocketbook is about to be lifted, when they say, "Don't worry about that. We'll do the right thing."

This is far too important a matter to depend on somebody's assurance that they are going to do the right thing. I have expressed confidence in the good will of the Senator from North Carolina, but this is too important a matter to leave this loose end untied.

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

Mr. BAKER. I yield.

Mr. COOK. In my part of the country, we say, "That dog won't hunt"; and I think the Senator from West Virginia understands that phrase.

Mr. BAKER. I am not going to offer an amendment at this time, but I would like to know the reaction of the distinguished Senator from North Carolina about a proposal that the staffing be done on an independent basis, that outside counsel be employed, and that we do it on a basis not similar to that which we do with standing and select and special committees.

Mr. ERVIN. If the Senator will yield, that is the reason why I said sometime ago that I propose an amendment to the Tower amendment.

I say to the Senator from Tennessee that there was some outside counsel in the McCarthy hearings, but every one of them, I think, was a Republican. I know Mr. Jenkins was. That is beside the point.

I would like to offer an amendment to the Tower amendment, as follows:

Strike out everything between the words "not less" and "select committee," and insert in lieu thereof, "The minority members of the select committee shall have representation on the staff of the select committee equal at least to one-third thereof."

I agree with the Senator from New Hampshire that they are certainly entitled to minority counsel.

Mr. COTTON. I thank the Senator.

Mr. TOWER. My amendment provides that 33⅓ percent of the moneys available

for direct compensation to personnel be allotted to the minority, and the Senator is suggesting one-third of the personnel. In other words, the Senator wants to pay the Democrats more than the Republicans.

Mr. ERVIN. Not necessarily. I just do not want to divide the money. I think we could very well agree on the staff. I do not know whether the Senator wants a lot of doorkeepers and messengers and things like that.

Mr. TOWER. No. We envision professional personnel, because this is an investigative procedure and requires people of considerable skill and experience; and that is what we envision as staff members.

Mr. ERVIN. Yes. I think that one-third——

Mr. TOWER. One thing that worries me about that—would the Senator read that again, please?

Mr. ERVIN. It reads:

The minority members of the select committee shall have representation on the staff of the select committee equal at least to one-third thereof.

Mr. TOWER. That worries me a little, because that means that the majority might have all the professional staff and the minority might get all the secretaries. Under certain circumstances, that might be desirable. [Laughter.]

But in this particular instance, I think that what we are concerned about is that we want to be assured of approximately one-third of the professional staff, and I think that is fully within the spirit of the Legislative Reorganization Act. I concede that there is no legal requirement to that effect, but I see no reason why we cannot operate within the spirit of that act, which was considered to be pretty good at the time we passed it.

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

Mr. ERVIN. I yield.

Mr. PASTORE. I think that at this point we are indulging in semantics and going from the sublime to the ridiculous.

The argument made by the Senator from North Carolina is that if the money is split, it might create the impression that there is a double investigation, and he is trying to avoid that. The minority denies that that is the purpose.

This modified amendment would accomplish exactly what the Senator from Texas wants to do, and that is that he is entitled to one-third of the staff, without mentioning the matter of the money. Naturally, if we are going to give the minority the janitors and we are going to take the lawyers, that would be a disgrace and a scandal for the Senate. No one intends to do that, and there must be reliance on the integrity of a man like SAM ERVIN.

If the Senator wants to write the word "professional" in there, I think that is agreeable and should be acceptable. The fact remains that we should not become ridiculous.

Mr. TOWER. I do not think anybody has impugned the honesty or good intentions of the Senator from North Carolina. Nobody on this side has done that.

I want to make sure we get one-third of the professional staff. I am not interested in sheer numbers of people. I am interested in the percentage of the professionalism on the staff.

In the Banking, Housing and Urban Affairs Committee we Republicans have almost one-third of the compensation. We have only 26 percent of the staff.

Mr. PASTORE. But does not the word "adequate" take care of that—adequate staff equal to one third? Adequate staff achieves equality.

Mr. TOWER. I believe the Legislative Reorganization Act uses the word "professional," and I am willing to accept that.

Mr. ERVIN. I would suggest, in deference to the statement of the Senator from Texas, that the minority members of the select committee shall have one-third of the professional staff of the select committee.

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

Mr. SCOTT of Pennsylvania. Professional and clerical.

Mr. ERVIN. I would not want to divide the clerical. I do not think we ought to decide right here. I would add to this, "one-third of the professional staff of the select committee and such proportion of the clerical staff as may be adequate."

Mr. TOWER. That is good. We will take that.

Mr. STEVENS. The total staff.

Mr. ERVIN. The staff is a totality.

Mr. TOWER. Will the Senator read that as it has been further amended?

Mr. ERVIN. In other words, this is really in the nature of a substitute to the Senator's amendment. I would strike out everything in the Senator's amendment and substitute in lieu thereof the following:

The minority members of the select committee shall have one-third of the professional staff of the select committee and such part of the clerical staff as may be adequate.

Mr. TOWER. Let us make a little legislative history at this point.

In the opinion of the Senator from North Carolina, does this reserve the right of the minority to a minority counsel?

Mr. ERVIN. Oh, yes.

Mr. COTTON. After the words "professional staff," before speaking of clerical, why not say "including a minority counsel"?

Mr. ERVIN. That is all right.

I have now rewritten this, at the suggestion of the distinguished Senator from New Hampshire, so as to read:

The minority members of the select committee shall have one-third of the professional staff of the select committee (including a minority counsel) and such part of the clerical staff as may be adequate.

Mr. TOWER. Let me ask the Senator from North Carolina a question about consultants. For the purposes of this amendment, should consultants be considered professional staff?

Mr. ERVIN. I think they should. I have no objection.

Mr. SCOTT of Pennsylvania. I do not see any reason why not.

Mr. TOWER. With that understanding, we are prepared to accept——

Mr. ERVIN. If anybody should hold that it is not sufficient to cover them, I would try to get the committee to apportion consultants all on the same basis.

Mr. TOWER. I thank the Senator from North Carolina. Having made that legislative history I am prepared to accept the amendment of the Senator from North Carolina to the amendment.

The PRESIDING OFFICER. The Senator's amendment will be so modified.

Mr. ERVIN. I will read this again.

Mr. TOWER. Let us make sure we get it right.

Mr. ERVIN. Strike out everything between the words "not less" and the words "select committee" and insert in lieu thereof the words:

The minority members of the Select Committee shall have one third of the professional staff of the Select Committee (including a minority counsel) and such part of the clerical staff as may be adequate.

The PRESIDING OFFICER. The Chair wishes to ask the Senator from North Carolina if this is in lieu of the language proposed by the Senator from Texas, in toto.

Mr. ERVIN. Yes. It is really a substitute. No, not quite. He states in his amendment:

Page 13, line 23, insert.

I would keep that part of the language of the amendment.

The PRESIDING OFFICER. The Senator from Texas has a right to accept the modification.

Mr. TOWER. I accept the modification.

The PRESIDING OFFICER. The question is on the amendment as modified. [Putting the question.] The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 11, line 19, after the word "committee", strike all through the word "member" on line 21 and insert in lieu thereof: "or the majority or minority counsel, when authorized by the chairman or ranking minority member,".

Mr. GRIFFIN. Mr. President, I ask that the amendment be read again for the benefit of the Senator from North Carolina.

The PRESIDING OFFICER. The amendment will be read.

The amendment was read as follows:

On page 11, line 19, after the word "committee", strike all through the word "member" on line 21 and insert in lieu thereof: "or the majority or minority counsel, when authorized by the chairman or ranking minority member,".

Mr. ERVIN. Mr. President, I do not object to a modification, but it seems to me you should be able to send somebody besides the general counsel.

Mr. GRIFFIN. Would the Senator allow me to have a few minutes to state the case for this amendment. I believe it is

a very important amendment, and I commend the distinguished Senator from North Carolina for making some modification himself in the language of the resolution as originally introduced. He did tighten it up himself somewhat with respect to the number of people who will have access to the raw FBI files containing all kinds of hearsay comments and unverified, unevaluated statements.

The experience of other investigatory committees of the Senate, including the Committee on the Judiciary has demonstrated the importance of being very careful in this area for the protection of innocent people. If a lot of staff members are going to have access to raw files of this kind, there will be a great risk of infringing on the right of privacy of individuals who have no real connection with the subject of the investigation. As Senators must realize, such files contain many ridiculous, unverified statements, and unless there is judicious use of such matter, innocent people can easily suffer irreparable damage.

I notice the presence of the Senator from Arkansas (Mr. McCLELLAN) in the Chamber. I know that he, as a veteran investigator, realizes the importance of the point I am making. As I understand the practice of the Committee on the Judiciary, only the chairman and the ranking member ordinarily look at material in an FBI file. It is seldom that other Senators who are members of the committee look at such material, and committee staff people are precluded altogether.

This amendment would recognize a right on the part of members of the committee to have access to such files. But it would specify precisely which staff members would have such access—and limiting it to the majority counsel and the minority counsel when authorized by the chairman or ranking minority member. In that way, we would pin down the responsibility and we would know exactly who would have access to such files.

It could be very unfortunate and might result in a great deal of needless damage to the reputations of innocent people if a great many staff people were to be allowed to rummage through such files.

The FBI, as we know, takes statements from anyone who will make a statement. FBI files should be reviewed only by those who will exercise a high degree of responsibility.

I wonder if the Senator from North Carolina would accept the amendment.

Mr. ERVIN. I would suggest a change in it. Under the Senator's amendment, and I think I had it pretty tight before——

Mr. GRIFFIN. Yes, the Senator improved it.

Mr. ERVIN. But I think I unimproved it because first it was more restrictive. But we need not argue about that.

I think it is a mistake to say the only people who can see this are members of the committee, or the majority counsel and minority counsel.

Mr. GRIFFIN. When authorized by the chairman or the ranking member.

Mr. ERVIN. We would have investigatory people who might have served in the FBI who should be able to see the matters mentioned in this section. I would think it would be better to say this: Strike what the Senator proposes to strike and say: "or the chief majority counsel or minority counsel, and such of its investigatory assistants as may be designated jointly by the chairman and the ranking minority member."

That would fix the chairman and the ranking minority member, instead of having the counsel of both groups. They could agree on some investigator and have the assurance of protection, and require both the chairman and the ranking minority member to make the joint selection.

Mr. TOWER. I think that is an improvement.

Mr. ERVIN. If the Senator will agree to that I will modify the amendment and so provide.

Mr. GRIFFIN. Unless I hear some objection from this side of the aisle, I am inclined to accept that modification. I would admonish the chairman of the committee to be and whoever is appointed to be the ranking minority member to exercise this responsibility with great care. I would hope that the number of people who would have such access will be small and judiciously limited.

Mr. ERVIN. I agree with the Senator on that.

Mr. President, I modify the amendment by striking out everything after the word "committee" on line 19, page 11, through the word "member" on line 21, page 11, and insert in lieu thereof the following: ", chief majority counsel, minority counsel, or any of its investigatory assistants designated jointly by the chairman and the ranking minority member."

That makes it the chief counsel and the minority counsel member. It has to be a joint agreement.

The PRESIDING OFFICER. Would the Senator send that language to the desk, please?

Does the Senator from Michigan accept the modification?

Mr. GRIFFIN. I accept the modification.

The PRESIDING OFFICER. The amendment is so modified. As soon as the Senator sends it to the desk, it will be modified.

The amendment, as modified, is as follows:

On page 11, line 19, after the word "committee", strike all through the word "member" on line 21 and insert in lieu thereof: "chief majority counsel, minority counsel, or any of its investigatory assistants jointly designated by the Chairman and the ranking minority member".

The PRESIDING OFFICER. The question now is on agreeing to the amendment, as modified. [Putting the question.]

The amendment, as modified, was agreed to.

Mr. HELMS. Mr. President, the distinguished senior Senator from North Carolina (Mr. ERVIN) has presented a proposal which, in other times and other places, might be discussed with more objectivity and greater purpose than at present. He has presented his analysis with a great deal of force and supported his arguments with his accustomed vigor. However, I regret that he has rejected, one after another, suggestions made to improve upon his original proposal and to perfect its mechanism.

If the investigation which the Senator desires does not have the utmost appearance of impartiality and objectivity, then it will not gain the trust of the American people. It goes without saying that partisanship is at the very heart of the original problem. One of our major political parties stands accused of interfering with the privacy of our other major political party. Seven minor figures have been indicted and found guilty by our courts; two are seeking to appeal. The end of the case is not yet in sight. It is not surprising that feelings are running high.

It is all the more important, therefore, that the investigation be conducted in an atmosphere that inspires confidence and betrays no suspicion that less than the truth, and the whole truth, has been found. I am disappointed that my colleague has rejected the suggestion that both major political parties be equally represented in this investigation. Such a rejection will only fuel the fires of those who are charging that this investigation is only a year-long fishing expedition, designed to be as far-ranging as possible, gathering everything and everybody in the net. My distinguished colleague—and he knows of my great personal admiration and respect for him—has often been on the floor of the Senate defending the civil rights of persons whose rightful privacy has been intruded upon. I know that he will be among the first to come to the floor if such a sweeping investigation as this, cruelly brought the names of the innocent in association with the names of the guilty.

I am further dismayed that the cost of this investigation, under these circumstances, will be $500,000. If the subject were one which were cloaked with mystery, if new evidence tended to indicate that much more would be unearthed, if there were any hope at all that a definitive resolution would be achieved, then a half million dollars might be a price worth paying. Yet there is no evidence worth considering.

The Watergate situation has received the closest and most penetrating scrutiny of any story in modern journalism.

A grand jury has made a thorough investigation and returned indictments.

A trial was held in the U.S. district court in which five defendants pleaded guilty and two others were convicted after an extensive trial. The trial judge himself went beyond the bounds of an adversary proceeding and interrogated the defendants himself before he satisfied himself that there were no others involved in the crimes.

The FBI and the Justice Department made a thorough investigation of their own.

Our distinguished colleague from the House of Representatives, the Honorable WRIGHT PATMAN, made a staff investigation through his House Banking and Currency Committee.

The distinguished senior Senator from Massachusetts had the staff of his Judiciary Subcommittee make on-the-spot investigations in this matter, and has apparently not pursued it further.

The junior Senator from North Carolina therefore finds it difficult to justify spending $500,000 on yet another investigation with broad powers given to a select committee to rehash old charges for another year.

If there are matters that need to be pursued further, then they ought to be looked into by the full Judiciary Committee. I know that the Judiciary Committee has a full calendar of proposals; but if there are overwhelming problems yet to be resolved in the Watergate affair, then I know that the public would have far more confidence in a normal standing committee balanced by the regular political process.

Moreover, this body has also established a Permanent Investigating Subcommittee of the Government Operations Committee which could perhaps easily handle many of these matters. Encouragement could also be given to the Judiciary Committee's Administrative Practice and Procedure Subcommittee to look further into those matters in its jurisdiction.

Mr. President, I dislike seeing a half-million dollars of the taxpayers' money spent on another investigating mechanism, adding to the Senate's own bureaucracy, when the job could, in my judgment, be done by existing personnel and facilities already available to this body.

The PRESIDING OFFICER. The resolution is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the resolution, as amended.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

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 Senators from Nevada (Mr. BIBLE and Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. JOHNSTON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Washington (Mr. MAGNUSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Connecticut (Mr. RIBICOFF), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from South Carolina (Mr. THURMOND) 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.

The Senator from Alaska (Mr. STEVENS) is detained on official business.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[No. 16 Leg.]

YEAS—77

Abourezk	Ervin	McGee
Aiken	Fannin	McGovern
Allen	Fulbright	McIntyre
Baker	Gravel	Metcalf
Bartlett	Griffin	Moss
Beall	Gurney	Muskie
Bellmon	Hansen	Nelson
Bennett	Hart	Nunn
Bentsen	Hartke	Pastore
Biden	Haskell	Pell
Brock	Hatfield	Percy
Buckley	Hathaway	Proxmire
Burdick	Helms	Randolph
Byrd, Harry F., Jr.	Hollings	Roth
	Hruska	Schweiker
Byrd, Robert C.	Huddleston	Scott, Pa.
Case	Hughes	Scott, Va.
Chiles	Humphrey	Stevenson
Clark	Inouye	Symington
Cook	Jackson	Taft
Cotton	Javits	Talmadge
Cranston	Kennedy	Tower
Curtis	Long	Tunney
Dole	Mansfield	Weicker
Domenici	McClellan	Williams
Eagleton	McClure	Young

NAYS—0

NOT VOTING—23

Bayh	Goldwater	Ribicoff
Bible	Johnston	Saxbe
Brooke	Magnuson	Sparkman
Cannon	Mathias	Stafford
Church	Mondale	Stennis
Dominick	Montoya	Stevens
Eastland	Packwood	Thurmond
Fong	Pearson	

So the resolution (S. Res. 60), as amended, was agreed to, as follows:

S. RES. 60

Resolved,

SECTION 1. (a) That there is hereby established a select committee of the Senate, which may be called, for convenience of expression, the Select Committee on Presidential Campaign Activities, to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting either individually or in combination with others, in the presidential election of 1972, or in any related campaign or canvass conducted by or in behalf of any person seeking nomination or election as the candidate of any political party for the office of President of the United States in such election, and to determine whether in its judgment any occurrences which may be revealed by the investigation and study indicate the necessity or desirability of the enactment of new congressional legislation to safeguard the electoral process by which the President of the United States is chosen.

(b) The select committee created by this resolution shall consist of seven Members of the Senate, four of whom shall be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the majority leader of the Senate, and three of whom shall be appointed by the President of the Senate from the minority Members of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account.

(c) The select committee shall select a chairman and vice chairman from among its members, and adopt rules of procedure to govern its proceedings. The vice chairman shall preside over meetings of the select committee during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the select committee or the chairman. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the select committee shall constitute a quorum for the transaction of business, but the select committee may fix a lesser number as a quorum for the purpose of taking testimony or depositions.

SEC. 2. That the select committee is authorized and directed to do everything necessary or appropriate to make the investigation and study specified in section 1(a). Without abridging or limiting in any way the authority conferred upon the select committee by the preceding sentence, the Senate further expressly authorizes and directs the select committee to make a complete investigation and study of the activities of any and all persons or groups of persons or organizations of any kind which have any tendency to reveal the full facts in respect to the following matters or questions:

(1) The breaking, entering, and bugging of the headquarters or offices of the Democratic National Committee in the Watergate Building in Washington, District of Columbia;

(2) The monitoring by bugging, eavesdropping, wiretapping, or other surreptitious means of conversations or communications occurring in whole or in part in the headquarters or offices of the Democratic National Committee in the Watergate Building in Washington, District of Columbia;

(3) Whether or not any printed or typed or written document or paper or other material was surreptitiously removed from the headquarters or offices of the Democratic National Committee in the Watergate Building in Washington, District of Columbia, and thereafter copied or reproduced by photography or any other means for the information of any person or political committee or organization;

(4) The preparing, transmitting, or receiving by any person for himself or any political committee or any organization of any report or information concerning the activities mentioned in subdivision (1), (2), or (3) of this section, and the information contained in any such report;

(5) Whether any persons, acting individually or in combination with others, planned the activities mentioned in subdivision (1), (2), (3), or (4) of this section, or employed any of the participants in such activities to participate in them, or made any payments or promises of payments of money or other things of value to the participants in such activities or their families for their activities, or for concealing the truth in respect to them or any of the persons having any connection with them or their activities, and, if so, the source of the moneys used in such

payments, and the identities and motives of the persons planning such activities or employing the participants in them;

(6) Whether any persons participating in any of the activities mentioned in subdivision (1), (2), (3), (4), or (5) of this section have been induced by bribery, coercion, threats, or any other means whatsoever to plead guilty to the charges preferred against them in the District Court of the District of Columbia or to conceal or fail to reveal any knowledge of any of the activities mentioned in subdivision (1), (2), (3), (4), or (5) of this section, and, if so, the identities of the persons inducing them to do such things, and the identities of any other persons or any committees or organizations for whom they acted;

(7) Any efforts to disrupt, hinder, impede, or sabotage in any way any campaign, canvass or activity conducted by or in behalf of any person seeking nomination or elections as the candidate of any political party for the office of President of the United States in 1972 by infiltrating any political committee or organization or headquarters or offices or home or whereabouts of the person seeking such nomination or election or of any person aiding him in so doing, or by bugging or eavesdropping or wiretapping the conversations, communications, plans, headquarters, offices, home, or whereabouts of the person seeking such nomination or election or of any other persons assisting him in so doing, or by exercising surveillance over the person seeking such nomination or election or of any person assisting him in so doing, or by reporting to any other person or to any political committee or organization any information obtained by such infiltration, eavesdropping, bugging, wiretapping, or surveillance;

(8) Whether any person, acting individually or in combination with others, or political committee or organization induced any of the activities mentioned in subdivision (7) of this section or paid any of the participants in any such activities for their services, and, if so, the identities of such persons, or committee, or organization, and the source of the funds used by them to procure or finance such activities;

(9) Any fabrication, dissemination, or publication of any false charges or other false information having the purpose of discrediting any person seeking nomination or election as the candidate of any political party to the office of President of the United States in 1972;

(10) The planning of any of the activities mentioned in subdivision (7), (8), or (9) of this section, the employing of the participants in such activities, and the source of any moneys or things of value which may have been given or promised to the participants in such activities for their services, and the identities of any persons or committees or organizations which may have been involved in any way in the planning procuring, and financing of such activities.

(11) Any transactions or circumstances relating to the source, the control, the transmission, the transfer, the deposit, the storage, the concealment, the expenditure, or use in the United States or in any other country, of any moneys or other things of value collected or received for actual or pretended use in the presidential election of 1972 or in any related campaign or canvass or activities preceding or accompanying such election by any person, group of persons, committee, or organization of any kind acting or professing to act in behalf of any national political party or in support of or in opposition to any person seeking nomination or election to the office of President of the United States in 1972;

(12) Compliance or noncompliance with any Act of Congress requiring the reporting of the receipt or disbursement or use of any moneys or other things of value mentioned in subdivision (11) of this section;

(13) Whether any of the moneys or things of value mentioned in subdivision (11) of this section were placed in any secret fund or place of storage for use in financing any activity which was sought to be concealed from the public, and, if so, what disbursement or expenditure was made of such secret fund, and the identities of any person or group of persons or committee or organization having any control over such secret fund or the disbursement or expenditure of the same;

(14) Whether any books, checks, canceled checks, communications, correspondence, documents, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions the select committee is authorized and directed to investigate and study have been concealed, suppressed, or destroyed by any persons acting individually or in combination with others, and, if so, the identities and motives of any such persons or groups of persons;

(15) Any other activities, circumstances, materials, or transactions having a tendency to prove or disprove that persons acting either individually or in combination with others, engaged in any illegal, improper, or unethical activities in connection with the presidential election of 1972 or any campaign, canvass, or activity related to such election;

(16) Whether any of the existing laws of the United States are inadequate, either in their provisions or manner of enforcement to safeguard the integrity or parity of the process by which Presidents are chosen.

SEC. 3. (a) To enable theselect committee to make the investigation and study authorized and directed by this resolution, the Senate hereby empowers the select committee as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm, or corporation, or any officer or former officer or employee of any political committee or organization to produce for its consideration or for use as evidence in its investigation and study any books, checks, canceled checks, correspondence, communications, document, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm, or corporation, or any officer or former officer or employee of any political committee or organization, to produce before the committee any books, checks, canceled checks, correspondence, communications, documents, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other of the Senate committees or the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to make the investigation and study authorized and directed by this resolution; (11) to have access through the agency of any members of the select committee, chief majority counsel, minority counsel, or any of its investigatory assistants jointly designated by the chairman and the ranking minority member to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercises the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpenas may be issued by the select committee acting through the chairman or any other member designated by him, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

SEC. 4. The select committee shall have authority to recommend the enactment of any new congressional legislation which its investigation considers it is necessary or desirable to safeguard the electoral process by which the President of the United States is chosen.

SEC. 5. The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than February 28, 1974. The select committee may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the select committee shall have three calendar months to close its

affairs, and on the expiration of such three calendar months shall cease to exist.

SEC. 6. The expenses of the select committee through February 28, 1974, under this resolution shall not exceed $500,000, of which amount not to exceed $25,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee. The minority members of the select committee shall have one-third of the professional staff of the select committee (including a minority counsel) and such part of the clerical staff as may be adequate.

Mr. ERVIN. Mr. President, I move that the vote by which the resolution was agreed to be reconsidered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 1202, title 12, Public Law 91–452, the Speaker had appointed Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. HUTCHINSON, and Mr. SANDMAN as members of the National Commission on Individual Rights, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 123(a), Public Law 91–605, the Speaker had appointed Mr. WRIGHT, Mr. GRAY, Mr. DON H. CLAUSEN, and Mr. SNYDER as members of the Commission on Highway Beautification, on the part of the House.

The message announced that the House had passed, without amendment, the joint resolution (S.J. Res. 37) to designate the Manned Spacecraft Center in Houston, Tex., as the "Lyndon B. Johnson Space Center" in honor of the late President.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SKYJACKING

Mr. HARTKE. Mr. President, it is my plan to bring to the attention of this body a series of issues concerning the operation of the Federal Aviation Administration.

I have made a statement for the CONGRESSIONAL RECORD, listing some 27 charges organized under seven categories. These run through the whole gamut of FAA operations and policies.

At this time I ask unanimous consent that an article appearing in the Washington Star of February 4, be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. HARTKE. Mr. President, now, we are to consider the FAA antihijacking regulations, and I say they constitute: a serious invasion of civil rights, and an unconstitutional encroachment of the Executive upon the legislative functions of Government; and I believe evidence will show that the FAA regulations do not, cannot, and will not work.

Further, it can be shown that there are other remedies to skyjacking that stand a better chance of stopping this serious crime without violating the rights and interests of American citizens and their Constitution.

Even assuming there were no other remedy whatsoever, and there is, I maintain that the burden of proof to show violation for these questionable FAA procedures must rest upon the FAA and upon anyone who defends them, not upon those who oppose them. I repeat, that even if there were no other remedies than those of the FAA, they are still improper and the burden of proving their constitutionality and legality rests on those who affirm them so heatedly, not upon anyone who resists them.

The majority of these have not even been tested at law.

Mr. President, if I could prove that the FAA regulations cannot, do not, and will not work, I would mollify some of my critics, win some friends, but lose the main question.

And, Mr. President, if I could prove, here or in court, that I have been separately and singly harassed at airports, that other Senators, Congressmen, their staff members, members of the President's Cabinet, their staffs and families, have done exactly as I have done without harassment—if I could prove all that, Mr. President—I would have mollified some critics, won some friends, and lost the main question.

And, Mr. President, if I prove too quickly here that devices other than mass airport search, seizure, and arrest—for arrest is exactly what we are dealing with here, then I shall have mollified some critics, won some friends, but will have lost the main question.

Finally, Mr. President, even if I prove that the FAA has not attempted to establish any legal validity at all for those regulations—at least one airline is beginning to have some doubts—and if I establish that the FAA acted in an irresponsible and haphazard fashion, I will have mollified some critics, won some friends but will have lost the main question.

The important question in this issue is not harassment of me personally, not better alternative devices, not the ineffectuality of the FAA methods. The important question in this issue—in my judgment, perhaps the most important issue over the next two decades—is one not only at the very heart of my dispute with the FAA; it lies at the core-center of the newsman's immunity issue; and it is even before this Chamber in the impoundment issue.

The evidence seems clear, Mr. President, that the FAA has quite literally endangered the lives of all American air travelers. And it is my opinion that evidence will show that persons in the highest places of the FAA bare a direct responsibility, literally, in the deaths of some victims of air tragedies. This is a serious charge. The evidence on this must come out, and I shall see that it does—and I think there lies much of the source of my harassment at airports.

But even this, Mr. President, this terrible documentary of tragedy in the air, is not the heart of this issue.

The capriciousness, impracticability, the irresponsibility of the FAA policies and operations are the sort of things that can be remedied, at least so that they will not cause further havoc.

But the main question before us will have gone underground once again. We will have remedied the irresponsibility of the moment and allowed what is most dangerous to escape our focus of concern. That is what, God willing, I intend to stop. That is what I intend to keep in focus, if I have to bring the issue to the forefront here and at every airport in the country, until the American people understand the issue and rise up to fight with me for it.

My easiest course, Mr. President, is to do as some people have attempted to do, say "I have nothing to hide, I will be an example to you of the way I can go ahead and cower down when confronted with this type of regulation," to secure the sympathy of the American people simply by fighting for the necessary changes in the FAA rules, show a better way to stop skyjacking, and prove that the FAA has been remiss in serving the people. That can and will be done.

But with the American people satisfied on that, we will be in great danger, I believe. We will have lost the main question. It shrouds the corners of congressional fund impoundment; it stalks the corridors of the CIA and the FBI; it makes Watergate, a resolution in respect to which the Senate has just passed, look like a Sunday school picnic.

It walks the street of every ghetto. It lurks behind every late night knock in poor sections of every city. It rose like a babe in the west coast Japanese concentration camps; and has matured like a bully to stop "long hairs" on turnpikes; it lurks behind the move to have cartoonists and psychiatrists tell us what skyjackers are supposed to look and act like.

The main question in this issue of mass airport arrest, is one of constitutional law, Mr. President. That is the question at issue here. Perhaps the most important question of constitutional law ever raised in this Nation—at least as important as that raised a century ago as to whether this Union can be dissolved at the will of one or some of its States.

Now, if I say that airport arrest is a great constitutional question, who will listen? Many of my friends tell me my public relations image on this issue is bad. Just name, they say, other Senators who use constitutional immunity at airports. I understand that both the FAA and some lawmakers are getting a little uneasy about doing what they had been doing before.

But I intend to forego the public rela-

tions image of the moment for a larger good. I know a constitutional question may look right in New York Times gothic; but it does not make the black, bold print of the Daily News.

No one, or few at most, really care about article I, section 6 of the Constitution. Even many, in this body are bored by it. Some Members of Congress have forgotten we are sworn to uphold the Constitution. Why not? This is "extremism in the pursuit of safety." I submit, Mr. President, that safety like liberty is not pursued very successfully at all by extremism.

I personally am not bored by article I. Article I is an embodiment of the principle of separation of powers deemed so imperative by our constitutional forefathers.

Forget the words of constitutional law—I can speak plainer than that.

I say airport arrest—any lawyer who knows the legal status of arrest knows what I am talking about—I say airport arrest is Watergate gone international.

This is the great international Watergate caper.

It is bugging Senate phones, gone public.

We already have women's purses rifled in FAA seizures, at $2,000 a clip.

We have already had a diplomatic courier's pouch—and he gets immunity at airports, according to the FAA—found containing heroin.

I carried two books aboard with me last time, and they were searched, I suppose for plastic bomb devices. One was the "Lives of Talleyrand," the other a volume on the New Society. I asked the FAA representatives if they considered a volume containing the Constitution of the United States explosive.

We have the legitimizing of baggage search for possible thievery by Government employees, or anyone else who happens to follow along behind.

We have a Senator turned away from a plane because he might go berserk, and airline pilots walk aboard carrying guns and a brain tumor.

What a mess.

What a disservice to Government and to the people of this great Nation. That our leadership has been so shoddy, so careless with what the Constitution is all about.

And to think that near hysteria has mounted for more not less mass search.

You may think, Mr. President, that I have stretched the logic of this case. That I sensationalize it.

I do not think so.

Let me take the Watergate charge. Can you, Mr. President, think of anything easier than for customs inspectors to watch your attache case, than this?

Will the next Republican nominee for President have access to Larry O'Brien's briefcase?

Will Democrats walk, and Republicans fly?

Or Daniel Ellsberg. Whatever you think of that case, the Pentagon papers would not be flown anywhere whether they merited release or not.

This is the most flagrant violation of the processes of this Government and its law that we have ever witnessed in peacetime.

It goes hand in glove with the news immunity issue. And I say we in this body will have to meet it head on. I plan to do my best to bring this issue to the forefront here in Congress and throughout the country until the American people understand what is at stake here, and rise up and smite down a direct threat to the Constitution.

Mr. President, it is my intention to offer amendments to S. 39. But it is my opinion that the serious constitutional questions raised here necessitate extended, open hearings. And the longer that process takes the better.

I do not think there is any question that all of us realize the danger of air hijacking, but I would like to quote Justice Brandeis who so eloquently stated:

Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

EXHIBIT 1

DANGEROUS SKIES: A BLAST AT THE FAA

(By Senator VANCE HARTKE)

You are quite literally taking your life into your hands every time you board a passenger airliner—and you're paying for the dubious privilege.

There is no doubt that the aviation industry must shoulder some of the blame for the tremendous and terrifying lack of aviation safety, since it is the industry which balks at any proposed safety measure that would be an inconvenience, or would cut into its profits.

But I think the lion's share of the blame for conditions which exist today must be assumed by the Federal Aviation Administration (FAA), a governmental organization charged with the responsibility for the safety of thousands of American air travelers every month.

The simple fact is that the FAA has not effectively discharged its responsibility. Moreover, my investigation makes me certain that FAA officials have not even tried to do so.

Some Capitol Hill newsmen say I have "declared war" on the FAA. That is not so. I am merely doing my job, as a United States Senator and a member of a Senate subcommittee concerned with aviation, by investigating reports of gross neglect by the FAA in the area of aviation safety.

Since it learned of my investigation, the FAA seems to have "declared war" on me in what I believe is a deliberate attempt at harrassment and intimidation.

In the past, no one—not even the FAA—has given a second thought to a member of the Congress exercising his constitutionally-guaranteed immunity to search while boarding an aircraft.

Only a short time ago, however, FAA investigators at various airports have made a point of denying me that immunity in an effort, I believe, to subject me to enough harrassment to cause me to bring my investigation to a close.

It won't work.

The facts speak for themselves. No amount of rhetoric—by me, or by professional bureaucrats in the FAA—will change facts that have been uncovered by my investigators and by safety experts employed by the FAA itself.

As my study proceeds, I am learning some frightening things, most of which are not generally known by the flying public. For example:

Contrary to FAA regulations, commercial airlines loaded with paying passengers often carry vast quantities of extremely dangerous cargo. I am referring now to acids, other chemicals, and radioactive materials.

It is inconceivable that the FAA is unaware of these violations, since accidents have been reported. During recent months, one load of chemicals exploded while the aircraft was on the loading ramp—only minutes before it began taking on passengers. In another incident, a container of acid sprung a leak and the liquid burned a hole through the belly of a passenger-filled aircraft—at some 30,000 feet.

Despite the large number of air tragedies that have been attributed officially to carelessness or lack of skill on the part of a private, pleasure pilot, FAA regulations still permit students to obtain their pilots' licenses with a minimum of 35 hours flight training.

There now are some 750,000 licensed private pilots in the United States, and a significant percentage of them have been licensed after only the minimum training period.

A team of the FAA's own aviation safety experts recommended some three years ago that regulations concerning private licenses be toughened.

The FAA did make a move in that direction—but collapsed after only a slight show of resistance by a comparatively small group of pilots. There is no activity in this area today.

The FAA-controlled system of ensuring that pilots—particularly those in passenger aircraft—are physically and psychologically fit is a disgrace.

Some FAA-appointed Aviation Medical Examiners, private physicians who are paid by the pilots they examine, are running certification mills. (Commercial pilots must be examined at least once a year to stay in the air.)

One doctor, according to FAA records, examined a total of 3,000 pilots during 1971. I cannot believe those examinations were very thorough. Another 23 examiners certified an aggregate total of 18,000 pilots during the same year. These, obviously, are not the sort of examinations called for by the regulations, yet the FAA has refused to remove these doctors from its list.

So what have we got? We have reported incidents of passenger aircraft pilots dying at the controls, the passengers being brought in safely by the co-pilot. In 1966, a chartered aircraft crashed at Ardmore, Okla., killing 83 persons. The National Transportation Safety Board (NTSB), which investigates all air disasters, attributed the crash to the death of the pilot by heart attack.

Another disgrace is the FAA's refusal to upgrade its requirements for operation of charter air services. This is another recommendation by FAA safety experts which has been ignored.

Often, when a charter flight crashes, the cause is listed as pilot error—with contributory factors such as the aircraft's being overloaded by several thousand pounds, or the pilot not having flown for several years. This is not my opinion; this is a matter of record at the NTSB.

Passengers on commercial airliners have survived crashes. Others, when the crash was followed by fire, have been labeled dead due to smoke poisoning. The fact is that many of those may have died of poison gas—cyanide gas to be specific.

This was pointed out by the Cook County, Ill., coroner's office recently after autopsies were performed on 54 victims of two crashes in which other passengers survived.

According to the autopsy reports, at least seven passengers, and possibly 10, who died

could have lived. They died of cyanide gas poisoning.

Is the FAA aware that some materials in the interiors of passengers aircraft emit poison gases when subjected to heat and flame? You bet it is.

In 1969, the National Bureau of Standards conducted laboratory tests of various materials and submitted its findings regarding cyanide gas and other poisons—at the request of the FAA.

With that report in its hands for nearly four years, the FAA still has taken no action to eliminate the dangerous materials.

The list of safety hazards goes on and on. There are reported irregularities in airport operations, in maintenance and inspection of aircraft, in air traffic control and collision avoidance systems.

All of these are well known to FAA officials, yet nothing is done. Why?

Philip I. Ryther, an FAA safety expert for some 15 years, headed a study group which was extremely critical of air safety and submitted a report to that effect in early 1970. When he pressed for action on the group's recommended improvements, he was hounded into early retirement.

Mr. Ryther has told my investigators that of the more than 5,000 air fatalities in the last three years, "more than half" could have been prevented if those recommendations had been adopted by the FAA.

I am now seeking a full-scale investigation into this situation by the Senate Commerce Committee's subcommittee on aviation, and an independent probe into FAA operations and activities by the General Accounting Office.

I am continuing my own investigation, and I believe the FAA, if it is a responsible agency of our government, should cooperate in gathering the facts.

Mr. COOK. Mr. President, I rise to make some remarks, first, about the statement just made by the Senator from Indiana (Mr. HARTKE) and then to make some remarks on another subject.

First, I have an odd feeling that many times we in the Senate want to put ourselves above the rest of the American people. I have never felt that way and I hope that I never do.

It must be a great deal of comfort to anyone who gets on an airplane that I get on, when my briefcase is looked at. I also get a great deal of comfort out of the fact that someone behind me and someone ahead of me is also having his briefcase looked at.

I have always felt that if we are going to be the people to enact the laws, if we are going to be the people who are going to extend the authority of an agency of the Federal Government to enact regulations, then, heaven forbid, what the Senate would be like if we were the first ones to decide not to obey the rules and regulations we had put into force and effect.

So I might say, I ask no privilege from any agency when I board an airplane, because there are those who have gone on board airplanes previous to this, where the regulations were not enforced and the baggage was not searched, and some of those people are not alive today.

It is a great traumatic experience that we are going through in this country now. I want to see the day come soon when all these things can be done away with, and we will not have to go through all this screening and the opening up of briefcases, and so forth.

But I want to go on record as saying that I, for one, will be the first in line to have all my baggage looked at when I go aboard an airplane, so that everyone can rest assured that Senators are going to legislate for the benefit of the people, and that I am going to be one of those who will be part of any legislative dicta and legislative responsibility.

I must say, in all fairness, that I would feel a sense of being almost offended if any airline in the United States found itself subject to a $2,000 fine because it found itself caught between an agency of the Federal Government whose rules and regulations it is responsible for and a Member of the Senate who could conceivably exert some influence relative to what actions may be taken toward that particular facility throughout the United States.

So I would only say, in all fairness, that I would only hope that we in the Senate and we in Congress would realize this is not just for the benefit of an individual Senator who walked aboard that airplane, but for the benefit of the 179 others or the 240 or 250 others who boarded it as well, that the plane can fly us from one place and we will know that where we are going we will, in fact, get there.

All this slight inconvenience for the protection and the benefit of my fellow man is something I find not offensive at all. I am sure that the enabling legislation that gave that authority to the FAA was done long before I got here. But at least I am here now and I do legislate. I do hate to think that I might have authority to legislate for others, but that when I legislate for others it does not apply to me.

It would be rather strange, in my mind, if I walked aboard that airplane and identified myself as a Member of the Senate, that I would see that I got aboard that aircraft, because of some authority within the framework of the Constitution, but that my wife had to be searched and my children had to be searched, that they would have to submit themselves to something that their father did not have to submit himself to.

I do not want my children to feel that, somehow, their daddy had some privilege they did not have. I try to the best of my ability to raise my children in the knowledge that I do not have any special privileges, because I am a U.S. Senator, that all of us will live on an equal basis. I hope that I can raise them on that basis. I will continue to do so.

Mr. HARTKE. Mr. President, inasmuch as the Senator from Kentucky commented on my statement, will he yield to me?

Mr. COOK. I am happy tc yield to the Senator from Indiana.

Mr. HARTKE. I do not think there is any question that the position the Senator from Kentucky is advocating is good politics. I think it is good politics, but bad law.

There is no question that a newsman, threatened with losing his constitutional right to promote freedom of the press may feel it would be good politics for him to say, "I will cooperate with the people in law enforcement and I will surrender my constitutional rights," under the threat of a judge's order.

But, I am saying to you honestly, Mr. President, that this is a matter which must not be dealt with lightly. There is not in this country at this moment any substantial law which upholds the presumption of guilt which is implicit in these airport searches.

Let me offer the following analogy and compare the action of the FAA with another issue.

As we all know Senator JOHN STENNIS was subjected here in the Nation's Capital to a robbery, followed by a shooting. We also know there is a considerable crime in this city and emergencies are frequent. Therefore, if one followed FAA reasoning one way say that it will be the policy to search everyone in this city, and every car that comes into the city, to see if there are any illegal weapons to be found? I guarantee you, Mr. President, they will turn up plenty of them, more than we will ever find in an airport search. But we all know that such searches would be in clear violation of our constitutional rights.

Why do we not stop a U.S. Senator when he walks into the Capitol Building? Every other individual is stopped and his bag is searched.

Why does not the Senator from Kentucky say, "I will be an example. I want to be searched"? Of course, it could make him late for a vote.

I think this is an important issue. If erosion of the power of Congress is taken much further, there is no question there will not be much of a role left for the Congress.

We did not declare war in Vietnam. Nor was a peace treaty submitted to the Senate on Southeast Asia. We have given the President unlimited power to impound funds. The list of abrogated duties is long and exhaustive.

As I said last fall, unless we begin performing our constitutional duties the Senate might as well adjourn and turn all authority over to the President.

When I became a Member of this body, I swore to defend and protect the Constitution and I will do my very best to do just that.

The Senator from Kentucky is 100 percent right that public opinion is with him. It is good politics, but it is bad law.

Mr. COOK. Mr. President, I have a prepared statement. But I have no knowledge and never have had any knowledge of an entire city being hijacked. Does the Senator have any knowledge, that if I had to be searched when I came into a city, I might be hijacked to Cuba? There are some Americans who might think it ought to be, but I have no knowledge that that has ever occurred. I have no knowledge that any mass arrests have ever taken place at any airport.

I am not sure that I—at least, in my opinion—am talking about good politics or what the public reaction is. I only know that to me it constitutes good citizenship at this time, when airplanes are being hijacked, when people are being killed, when their lives are being endangered in a confined unit in the air, thousands of feet above this country, where they can be taken anywhere

in this country, where American planes with passengers have been held for days and days and weeks and weeks, and the airplanes have been blown up, and the individuals have been killed. I can only say that I only know of a very few things that can be hijacked, and one is an airplane, and that until such time as we can get over this traumatic experience in the United States, the politics of the issue be damned.

I think it is good citizenship, and I am going to set an example, not follow an example, so that when those people go on an airplane, they can be content and at least have a degree of solace. If I am supposed to be a leader, I am going to try my best to be one. I will defend their right under the Constitution as to search and seizure and their right under the ordinary, normal, and constitutional circumstances. But I would say to the President and to any Member of the U.S. Senate that he would have an altogether different feeling if he had to spend some 48 hours in one airplane—as did those people who testified before our committee the other day—that took them from Montgomery, Ala., to Toronto and Detroit and Lexington and Chattanooga and Cuba and back to some place in Florida and finally back to Cuba, and had its tires blown out. Their lives were in danger every minute of the time.

Mr. President, my responsibility as a citizen of the United States would be to set an example for the people who had to go through that horror on an airplane and to do the best I could to see that it did not happen again.

THE CIGARETTE CONTROVERSY

Mr. COOK. Mr. President, the war against tobacco has been as protracted as was the fighting in Vietnam. Both have been waged for more than a decade. Both have gone on far too long. Both are harder to end than they were to begin. Both were probably avoidable, at least on the basis of hindsight. And both have demonstrated at great cost that there must be a better way to resolve differences.

Hopefully, the combat in Southeast Asia has been brought to an end. But sadly, no cease-fire, no armistice, no peace, no light at the end of the tunnel is in sight for the conflict that rages around smoking.

Mr. President, I come from a State that produces more burley tobacco than any other State in the United States. Once again, as in the past, January has brought with it the opening of the annual winter offensive against 50 million adult Americans who choose to smoke cigarettes. Once again, as in the past, the campaign has been preceded by a massive bombardment of charges that masquerade as "overwhelming scientific evidence."

The campaign against smoking looks like science; it is packaged like science; it is promoted as science. But it sure is not science. It is a whole 'nother smokescreen.

It is, in fact, a dangerously deceptive exercise in behavioral modification through manipulating and controlling the information on which decisions are based.

Mr. President, I refer to the recent report to Congress from the Department of Health, Education, and Welfare on the health consequences of smoking, the seventh in a series of documents required by law to inform Congress on the current state of scientific knowledge in this area.

In former years, these reports were named after the Surgeon General. This year, the gentleman was among a rather large group whose resignations were accepted by the President, which met with my blessings. Since he had departed before the christening, the only high HEW official who could be mustered to give the creature some sort of official sendoff was Dr. Merlin K. Duval, Assistant Secretary for Health. He signed the preface 2 days before he resigned. And Secretary Richardson, preoccupied with his passage across the Potomac to the Pentagon, perfunctorily signed the transmittal letter.

Once again, as in the past, no one in charge at HEW had taken the time to read the contents. Presidents come and go. So do Cabinet secretaries. But the HEW staff stays on—secure in its anonymity—and continues to turn out its antismoking reports. These old and practiced hands continue to promote their report to Congress, the medical community, and to the press as objective and complete scientific evidence, when, in fact, a more accurate label would be a one-sided propaganda tract.

And once again, as in the past, they have managed to carry off the same old false, misleading, and deceptive practice. The FTC demands that business substantiate its advertising claims, but raises no complaint against false, misleading, or deceptive practices of Government officials.

"Women Smokers Warned of Fetal and Infant Risks," said the New York Times headline, as if receiving the news from the Almighty, or Walter Cronkite. "United States Links Smoking to Infant Deaths," was the Washington Star headline, as if they were reporting some kind of national referendum. And that is the way it went across the country from front page to front page, from tube to tube.

Mr. President, I do not blame the headline writers, the newspaper reporters, or the television commentators. They lack the time to check details or to look behind the handouts. After all, why should they mistrust their Government on health matters? Perhaps they will in the future bring to health and science issues the same questioning attitude that they manifest in other areas of Government operations, such as the conduct of war and foreign affairs.

For to extend the analogy between Vietnam and tobacco, I believe it is perfectly proper to question the source of information given out about smoking and health. As an expert pointed out in a masterpiece on military strategy:

> A great part of the information in war is contradictory, a still greater part is false, and by far the greatest part is subject to considerable uncertainty.

In the cigarette controversy, it is also true that Congress, the press, the public, and even the White House, operate under a serious information disadvantage. They are all dependent on information collected and controlled by entrenched Federal bureaucrats who operate anonymously in the dark nooks and crannies of the Federal Establishment.

I intend to throw light on their dark terrain, to turn over the rocks that shelter them, and to let everyone see just what and who emerges.

Title 42, section 241 of the United States Code establishes the "general powers and duties" of the Public Health Service. That section reads in part:

> Promote the coordination of, research, investigation, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control and prevention of physical and mental diseases and impairments of man . . .

Certainly, such a broad and general function would include the coordination of all activities relating to diseases, and not just those activities which tend to support the theories of certain individuals. To the contrary, unfortunately, the activities of Dr. Daniel Horn and his staff have failed to disclose any unbiased, scientific research. Horn and company were set up by Surgeon General Luther Terry, who leaped into prominence with the 1964 report on smoking and health. By 1967, he had established his clearinghouse in the Public Health Service with staff, funds, and mission.

From the start, Dr. Horn's mission has been, on the one hand, to reduce the number of cigarette smokers and, on the other, to serve as a central source of scientific information on smoking and health. And be responsible for HEW to Congress on this subject. To his credit, our last Surgeon General, Dr. Steinfield, agreed that these functions should be separated, because criticism of the apparent conflict was an "excellent point."

I digress slightly at this point to say that Dr. Steinfield was the gentleman, apparently on the advice of Dr. Horn, who said in Chicago at one time that you should not worry about some of these things, that marihuana probably was not any worse than cigarette smoking because five or six former Presidents had smoked marihuana quite a bit during their lifetime.

Incredibly, the first revelation is the shocking fact that the same individual who is charged with collecting and distributing all available material on the subject of smoking and health and report it to the Congress is the very same person who is responsible for conducting the Government's anti-smoking activities. That is rather strange. One and the same individual is judge, jury, prosecuting attorney, and chief investigator. This state of affairs has persisted since 1966.

The fox guarding the chicken house is Daniel Horn, Ph. D., a psychologist who came to Government in 1963 from the American Cancer Society, an organization which is frankly and honestly dedicated to the elimination of cigarette smoking in the United States.

So let us give credit where it is due. The proper name is not the Surgeon Gen-

eral's report, but is the "Horn Report," and that is what I shall call it during the remainder of my remarks.

Make no mistake, I am not critical of Dr. Horn's role as a zealous anti-smoking crusader, as an advocate of zero-level consumption of cigarettes, or a skilled propagandist, as an expert in the psychology of behavior modification. I just do not believe, and one may agree, that such a commitment to a cause can work for fairness, objectivity, or equity. I just do not expect the prosecutor to be sitting on the judge's bench and in the jury box, and then, call the result a fair trial. This is the crux of the issue.

However, as a Senator I am also concerned by the excesses of Dr. Horn's zeal especially when I read in the Washington Star:

> The Nixon administration's anti-smoking expert says there is enough evidence that smoking is so harmful to pregnant women that the federal government is beginning a national crusade to "give babies a fair chance."

The United Press International reports Dr. Horn "the chief statistical crusader against smoking" as saying:

> A rapidly increasing proportion of the United States population favors an absolute prohibition on the sale of cigarettes.

You, too, may share my concern when the National Tatler, a sensational weekly, reports that "he's out to wipe non-filtered cigarettes off the face of the Nation," and that—

> His office, a subdivision of HEW, will have to go to Congress to get a law forcing the tobacco industry to conform to the low-hazard smokes.

Interestingly, this story ran 2 months after my distinguished colleague Senator Moss held hearings on his bill to limit and progressively lower the tar and nicotine content of cigarettes. True to form, Dr. Horn favored a rapid reduction to the zero level. By strange coincidence, one day after the 1973 Horn report hit the front pages, Senator Moss was announcing a new bill to lower tar content of cigarettes through repressive taxation.

You may become alarmed by Dr. Horn's back-of-the-hand attitude toward such a basic American concept as freedom of choice, especially as it applies to smoking:

> I think you can develop a holier-than-thou attitude in this area by saying that people have a freedom of choice and that we should provide them with the information and let them choose.

You may even grow agitated to discover that he is planning to conquer new worlds. "Everything we learn about how to deal with the smoking problem" he has said, "will serve in dealing with other problems in the control of gratification behavior." What does he have in mind: Eating? Drinking? Birth control? Sex education?

I certainly hope Casper Weinberger gets better acquainted with his administration's No. 1 smoke fighter than Elliot Richardson did.

But, Mr. President, what really and truly concerns me—and should concern every fairminded Senator regardless of where he stands on the cigarette issue—is the amazing fact that Dr. Horn is not concerned. He sees absolutely no conflict of interest, no inconsistency, no fundamental unfairness in his dual function in being a zealous inquisitor and unbiased evaluator. He does not admit the slightest doubt about his ability to prepare unbiased, objective reports on smoking and health to the Congress.

Mr. President, his reasoning is untenable, his attitude is unconscionable, and his conflict of interest is unacceptable.

It is time for all fairminded people—inside and outside the Government, and especially in the press—to become aware of and concerned about how scientific literature is handled in the Horn reports on smoking and health.

There is testimony before Congress that these reports are one-sided and biased. There is evidence that they are not based on all the world literature on the subject. There is ground to believe that Dr. Horn and his staff ignore, misinterpret, or downplay scientific articles that report findings that do not support the anti-smoking party line.

The result is a double deception. We do not know that we do not know. We are sold a half loaf which is advertised as a whole loaf. You cannot sell bread that way and, I submit, you should not be able to sell science that way either. Let me give a few examples of how Dr. Horn operates.

Last year he prepared a chapter for the report entitled "Public Exposure to Air Pollution from Tobacco Smoke." The very words are an attempt to divert attention away from the real sources of air pollution.

The overall effect was calculated to raise the fear that nonsmokers were being harmed by their smoking neighbors. We were led to believe that the chapter contained "positive" evidence of harm to nonsmokers in confined places such as airplanes. And it was successful. The now departed Surgeon General raised the battle cry: "Ban smoking in public places." We, therefore, see the spectacle of HEW enforcing segregation on its own employees who smoke. Rulemaking procedures to ban or segregate smoking were started to enforce the policy on air and train travel. Even the presiding Chief Justice invoked the findings of the Horn report in a personal confrontation with a railroad conductor, and later in a letter to the Secretary of Transportation. He accomplished more than half the Members of Congress could accomplish. Mayor Lindsay acted swiftly to ban smoking on the decks of the Staten Island ferry, regardless of the pollution in the air above or the water below.

Now this is something that I know about. Let me tell you the results of a joint study performed by the FAA–HEW which actually studied and measured the air in passenger aircraft. This study was started in 1969 and completed in 1970. The principal finding of the study was that smoking in passenger aircraft did not represent a hazard to the nonsmoking passengers.

This negative finding was reported by, of all people, columnist Jack Anderson on December 20, 1970. But, it was not even mentioned by Dr. Horn in his 1972 report. It was completely ignored. I had the opportunity to ask Dr. Horn about this failure during his appearance before the Consumer Subcommittee last February. Dr. Horn's excuse was that the FAA–HEW study was "unavailable" to him until almost a year after the columnist had reported on it. Dr. Horn said that when he did receive the report, it was too late to include it in his chapter. Dr. Horn assured me that the findings of this Government-sponsored research project would be in this year's report.

However, the 1973 Horn report has completely avoided the subject of "Air pollution caused by tobacco smoking." Instead, Dr. Horn buried the "unfavorable" FAA–HEW study with a brief citation in a chapter entitled "Non-neoplastic Bronchopulmonary Diseases." True to his technique, while he mentioned the study, Dr. Horn refused to make public its basic finding that cigarette smoke does not harm nonsmokers.

Why should Jack Anderson be a more reliable reporter of Government-sponsored scientific research than Dr. Horn? Why has Dr. Horn dropped this whole matter of public smoking from this year's report? Could it be, as I am informed, that certain new and highly regarded research has demonstrated that the fears raised by Dr. Horn are not supportable?

My concern about Dr. Horn is heightened by other examples of his suppression or omission of evidence that goes against him. During the same consumer subcommittee hearings last February, the chairman asked two witnesses before us for a list of scientific articles which were published in the last 10 years and which had not been considered and discussed in the several reports on smoking and health. This list of omission was submitted and made part of the record. Would you believe that the total came to approximately 2,000 articles which were neither cited nor discussed by Dr. Horn and his staff?

Mr. President, although quantity does not always imply quality, the very size of this list, especially those of recent date, gives some inkling of the wide diversity of views among scientists about the causes of various diseases linked to smoking. If nothing else, the magnitude of the omissions, strongly suggest an investigation by the Senate of Dr. Daniel Horn's peculiar modus operandi.

Another example of how the Horn report distorts the evidence is seen in the handling of the health effect of smoking during pregnancy. In last year's Horn report, and again in this year's, the meticulous work of Dr. Jacob Yerushalmy was studiously brushed off, even though it was supported by a grant from the National Institute of Health. The reason, I believe, is that Dr. Yerushalmy concluded that the findings "raise doubt and argue against" the proposition that cigarette smoking harms the unborn. On the contrary, he said, "evidence appears to support the hypothesis that the higher incidence of low-birth-weight infants is due to the smoker, not the smoking."

I ask unanimous consent to insert in

the RECORD a copy of Dr. Yerushalmy's correspondence regarding the criticism of his work by Horn and company. This letter should have been in the record of the February 1972 hearings of the Consumer Subcommittee but, although given to the staff for this purpose, for some reason it was omitted, as so often happens with evidence that goes against the antismoking view.

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

FEBRUARY 9, 1972.

Prof. JACOB YERUSHALMY,
Professor of Biostatistics School of Public Health, University of California, Berkeley, Calif.

DEAR PROFESSOR YERUSHALMY: During the hearings on S. 1454, a bill to require mandatory levels of "tar" and nicotine content of cigarettes, there was a reference to your studies on smoking and pregnancy.

Doctor Daniel Horn stated that your studies had been "criticized" and he was asked to supply copies of the "criticisms" for our record. I have been much impressed by your studies and would appreciate your providing any observations you may have, also for our record. We would be particularly interested in your views on the statements made concerning your work in the 1972 Report to Congress, as expressed in Chapter 5, and your views as to whether the 1971 and 1972 Reports fairly cover the pertinent literature on smoking and pregnancy.

Your recent article in the *American Journal of Obstetrics and Gynecology*, January 15, 1972, is extremely interesting. Any comment you might have with respect to this article and what it adds to our understanding of the subject would be greatly appreciated. I do not believe it was mentioned either in the 1972 Report, or by Doctor Horn when he appeared before our Committee, and wondered if he had received a copy.

Our record will remain open for approximately 30 days and I hope you will be able to respond to my inquiries within that time. I am sure that the Committee will welcome any light that you can shed to help guide its deliberations.

Sincerely yours,

MARLOW W. COOK,
U.S. Senator.

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., February 23, 1972.

Senator MARLOW W. COOK,
U.S. Senate, Committee on Commerce, Washington, D.C.

DEAR SENATOR COOK: This is in response to your letter of February 9 inviting me to comment on the criticisms of my studies on cigarette smoking and pregnancy contained in the 1971 and 1972 Public Health Service Reports to Congress. Since the reports singled out my studies for criticism, I am glad to comply with your request.

Although most of the arguments in the reports hardly call for extensive rebuttal, I will comment on each point in the order in which it appears in the reports.

The 1971 report raises the following objections:

(a) *Criticism:*

"He referred to the small infants of smoking mothers as being 'apparently healthier' than those infants weighing less than 2500 grams who were born to nonsmoking mothers . . . but neither group can be considered 'healthy' having sharply elevated death rates." (P–404)

Comment:

I did not state that low birthweight babies of smokers were "healthy". I said that they were "*healthier*" than low birthweigh babies of non-smoking mothers. No one can argue with this statement, for low birthweight infants of smokers who died at a rate of 138 per 1,000—while certainly not healthy—are nevertheless much healthier than low birthweight infants of non-smokers who died at a rate of 232 per 1,000.

(b) *Criticism:*

That the excess of neonatal mortality for smoking mothers in my study "is not significantly different from the 31% excess mortality reported by Butler et al which is statistically significant". (P–404)

Comment:

I suppose the least said about this strange argument the better. Who ever heard of using findings from one study (and a retrospective one at that) as a standard by which to measure another one. In any case, even this weak argument is lost completely in view of my 1971 study which shows almost identical neonatal mortality rates for infants of smokers and non-smokers. (11.3 vs. 11.0)

(c) *Criticism:*

"That the interpretation of the neonatal mortality among the infants weighing less than 2500 grams is difficult, because I considered only live births . . ." (P–404)

Comment:

If the authors of the report would have consulted any obstetriciam, they would have found that in testing for relationships with birthweight (which after all is the major topic under discussion) one must limit consideration to live births, because birthweight of stillbirths are of questionable value since a number of them remain dead in utero for varying periods of time and their birthweights are reduced, not to mention the relatively large number of macerated fetuses. In any case, since our 1964 paper, Dr. W. F. Taylor analyzed the fetal deaths in our study and found no difference between smokers and non-smokers from the very beginning of pregnancy (abortions) and throughout the pregnancy (stillbirths). In fact the 1972 report quotes Taylor's findings (P–129). Incidentally, Taylor analyzed our fetal death data correctly by the use of the life table method. None of the other studies which show increases in abortion rates used this method. In fact, the one study on which the supplement leans heavily in their attempt to justify their statement that "women who smoke during pregnancy have a significantly greater risk of unsuccessful pregnancy than those who do not"—that of Russell, et al—lumps abortions, stillbirths and neonatal deaths in one almost meaningless index.

The 1972 report states the following criticisms:

(d) *Criticism:*

"That some of (my) findings are different from those reported in other recent large-scale prospective studies (5, 13, 17, 19), and some of the differences may be a consequence of the definition of 'smoker' used." (P–129)

Comment:

Again, a strange statement: "other recent large-scale prospective studies". These are as follows: Butler et al study (5) which is not a prospective but a retrospective study. The reports refer to this study several times as a "prospective" study (Pages 390 and 415 and in the table on Page 395 of the 1971 report and Page 129 of the 1972 report), and yet they state and quote from the study that "the smoking history was obtained shortly after delivery of the infant" which obviously shows that it was a retrospective study. (One may question the propriety of a governmental publication to make such a serious misstatement in a report to the Congress). The other three studies are based on 6,376; 4,312; and 2,200 respectively (Kullander and Kallen (13); Palmgren and Wallande (17), and Russell et al (19)). It would therefore be more correct to say that the findings from these studies are different from the really large-scale prospective studies: Underwood's based on 48,000, Ratakallio's on 12,000 and Yerushalmy's on 13,000 pregnancies.

Moreover, in my 1972 paper I reviewed the entire literature consisting of 33 studies. I marked the discussion on Pages 277–278 in the enclosed paper. I have no doubt that any unbiased critical review of all the evidence must come to the same conclusion that I have underscored on the bottom of Page 278 and top of Page 279.

As to their speculation on the effect of the definition of "smoker," I wonder why they overlooked my extensive discussion of the problem in my 1964 paper. See table on Page 517 and the discussion of it beginning with the last paragraph on Page 515 to top of right hand column of Page 516. I wonder also why the reports did not raise the same question of definition when they discussed the study of Russell et al which they quoted so extensively to show the excess of unsuccessful pregnancies among smokers. Russell's definition was stated as follows: "The smoking habits of women are recorded at the time they are chosen for the survey." In any case, to keep the record straight, women were defined as "smokers" in our studies if they smoked throughout the pregnancy.

(e) *Criticism:*

They quote a comment from McMahon et al that there are factors that affect birth weight without influencing mortality. The example cited by McMahon is that of the sex of the infant. (Page 130)

Comment:

It is interesting that they found it necessary to dig up an old paper (1965) which comments on my 1964 paper, especially since I commented in that paper as follows: "Always present is the possibility that smoking during pregnancy indeed causes a reduction in the size of the infant without any increase in neonatal mortality."

The example of the sex of the infants which McMahon uses fits well with my contention in the 1971 and 1972 papers that the effect of smoking appears to be much like that of a biologic variable. I show that the differences in reproductive performance of smokers and non-smokers are very much like those of the biologic characteristics of short and tall women. Sex of the infant obviously is also a biologic and not an exogenous variable. Thus McMahon's comment strengthens rather than weakens my contention.

You asked me also to comment on what I think my recent article (January, 1972) adds to the problem of smoking and health. Primarily it is a contribution to the question of causation. As you know, our knowledge on casual factors in conditions and disease in humans is derived from uncontrolled or poorly controlled observational studies. The difficulty is that the groups being compared are generally not alike in many pertinent characteristics. Consequently, there is the uncertainty whether any differences observed are due to the factor studied or to the characteristics by which the groups are differentiated. This is especially disturbing when the findings do not fit well together as for example in the case of smoking and low birthweight, where smokers have more low birthweight infants and their infants should therefore have higher perinatal death rates, but such excess mortality is not found. We therefore continued to investigate the problem and the latest results almost clinch the argument against causation. This conclusion follows from the finding that women who eventually became smokers, produced a large proportion of low birthweight infants even before they started to smoke; although these infants were born under non-smoking conditions. Also striking is the fact that women who quit smoking produced a low proportion of low birthweight infants even during the period when they smoked, indicating,

perhaps, that people who stop smoking are not smokers in the real sense of the word. These findings suggest that the relationship to low birthweight is due to the *smoker* not the *smoking*.

I would be less than candid if I did not add, as I did in the paper, that these findings must be considered tentative until confirmed or denied by many more studies on larger numbers with the inclusion of many more variables.

I believe also that the paper is making a contribution in its review of all the evidence on the question of smoking and outcome of pregnancy available in the literature. The papers discussed in the reports to Congress represent only a part of the available evidence.

May I also add that I presented the data from the 1971 and 1972 papers when I was invited to give the annual invited address before the Society for Epidemiologic Research in May, 1971. The official discussant was Dr. George B. Hutchinson, Professor of Epidemiology, School of Public Health, Harvard University. Dr. Hutchinson is on record as accepting the antismoking hypothesis. In his discussion he said in part:

"The piece of evidence that I cannot discard is the new observation on pregnancies of smoking mothers in which the pregnancy preceded the onset of smoking . . . This observation rests on 20 cases of low birthweight of future smokers. It requires repeat demonstration in a different population and with large numbers. For the present, however, I would accept the new evidence and tentatively reject the casual hypothesis. It no longer seems tenable to suppose that antismoking efforts can cause a rise in birthweight . . ."

You inquired also whether Dr. Horn received a copy of this paper. I do not know if he received one but last October, in response to a form letter inquiring about studies in the field of smoking, I sent him a reprint of my 1971 paper and two manuscripts with the notation that one of them was accepted for publication in the *American Journal of Obstetrics and Gynecology* (since published in the January, 1972 issue) and the other accepted for publication in the proceedings of the Berkeley Symposium on Mathematical Statistics and Probability, to be published later this year.

May I close this letter with a quotation of a paragraph from a letter that I wrote to Dr. Charles M. Fletcher of London who was the chairman of the committee and editor of the Royal College of Physicians' report on smoking and health, and who wrote a joint report on the same subject with Dr. Daniel Horn in the W.H.O. Chronicle in October 1970. They dealt with the evidence on smoking and pregnancy in much the same uncritical approach as that of the Public Health Service reports. Since Dr. Fletcher is a friend, I could be frank with him to write as follows:

"It seems to me that by adopting the policy of quoting only evidence which supports one's hypothesis and neglecting all other in the long run, defeats its purpose. For example, I was able to see in the area of pregnancy, with which I am familiar, that your review is not as objective as one would desire. I am therefore forced to the conclusion that I could not accept as unbiased the evidence in the other subjects in your review with which I am less familiar."

In my view, a similar statement may be made with respect to the data in the Surgeon General's Reports to Congress.

Sincerely yours,

J. YERUSHALMY,
Professor of Biostatistics Director, Child Health and Development Studies.

Mr. COOK. Mr. President, I could go on like this all day. Rather than take up additional time I will supply more information on this matter at a later date. But I must make one final point loud and clear to disabuse any mistaken notion that these are the rantings of a Senator whose constituents' ox is being gored.

The issue here is the abuse and misuse of science. The examples happen to deal with tobacco, but the impact is far wider. Indeed it undermines intelligent decisionmaking for sound policy on a dozen fronts. Are you concerned about exposure of industrial workers to dangerous substances on the job? Do not bother to struggle for improved occupational health; just put up a no smoking sign. Are you concerned about increased infant mortality, premature births, and deaths of newborn babies in our urban ghettos? Do not wrestle with the difficulties of improving medical care delivery in the slums; just put up a no smoking sign. Are you concerned about cleaning up the environment? Do not campaign to reduce air pollution; just put a no smoking sign up because "personal pollution," according to Dr. Horn, is more serious.

The crucial danger in all of these major issues on the national agenda is that science will follow some crusader's flag. It is a danger of great seriousness, as Justice Brandeis observed when he said:

Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

Ironically, I borrowed this wise quotation from a report issued last week by the departing Secretary of Health, Education, and Welfare. I commend it to his successor.

Mr. President, the time is growing short to end the unscientific, unobjective, immoral, and in all honesty what I must call, the disgusting war against tobacco farmers. Even as I speak, Dr. Horn and his band of closed-minded, antismoking crusaders are busily plotting a sneak attack against smoking. They are doing their work under the cover of the bipartisan national cancer attack program, and under the guise of scientific advice to Congress and the Presidency.

Wittingly or unwittingly, the National Institutes are being involved. Dr. Horn and his band have prevailed on NIH to set up an ad hoc advisory committee on smoking and health. He prevailed on NIH to approve of a secret meeting to be held last month in, of all places, the American Cancer Society office on 52d Street in New York City. They prevailed on these duly constituted Federal officials to flout the spirit and letter of Public Law 92–463, the Federal Advisory Committee Act, and fail to list the meeting in the Federal Register.

Fortunately Senator ERVIN caught them in the act. But nevertheless they prevailed on the NIH to reschedule the meeting for February 4—St. Valentine's Day, perhaps with Al Capone's massacre in mind, and they further flouted the law by listing the announcement of the meeting, not in the Federal Register, but in the classified advertising columns of the Washington Post amid the lost-and-found items, puppies-for-sale, and my-wife-having-left-my-bed-and-board ads.

Finally, when they were forced to use the Federal Register, they prevailed on HEW to hold out to the bitter end, and list the meeting as pursuant to an Executive order rather than the congressionally enacted Public Law 92–643.

Mr. President, I now have in my possession the agenda of this hanging jury and would like to read it into the record at this point:

AD HOC COMMITTEE ON SMOKING AND HEALTH,
NATIONAL CANCER ADVISORY BOARD
NATIONAL INSTITUTES OF HEALTH,
February 14, 1973.

1. *Charge to the Committee*—Recommendations on setting of levels of tar and nicotine through legislative means.

2. Analysis of current legislation that may be used to establish maximum levels of tar and nicotine.

3. Legislative recommendations for establishment and enforcement of maximum levels of tar and nicotine.

4. Review of current NCI–NHLI efforts in smoking and health, and recommendations for their better organizations and funding.

5. Establishment of epidemiological monitoring studies that may determine the effectivness of legislation.

LIST OF PROPOSED MEMBERSHIP*

Ad Hoc Committee on Smoking and Health

Dr. Philippe Shubik (Chairman), Eppley Institute.
Dr. Theodore Cooper, NHLI.
Mr. Emerson Foote, ACS.
Mr. James S. Gilmore, Gilmore Broadcasting.
Dr. Gio Gori (Executive Secretary), NCI.
Dr. Daniel Horn, National Clearinghouse for Smoking and Health.
Dr. Charles Kensler, Arthur D. Little, Inc.
Dr. Kenneth Krabbenhoft, Wayne State University.
Mrs. Mary Lasker, Lasker Foundation.
Dr. Jonathan Rhoads, Univ. of Pennsylvania.
Dr. Robert Ringler, NHLI.
Mr. Laurance Rockefeller, Rockefeller Brothers Fund.
Dr. Umberto Saffiotti, NCI.
Mr. Benno Schmidt, J. H. Whitney & Co.
Dr. Frederick Seitz, Rockefeller University.
Dr. Luther Terry, University Associates, Inc.
Dr. Ernest Wynder, American Health Foundation.

Three of the five items are legislative recommendations dealing with allegedly impartial advice to Congress. But which are in fact propaganda support for bills introduced by my distinguished colleague from Utah (Mr. Moss). Another item—the fourth—is Dr. Horn's effort to rebuild his empire within NIH, when he has failed to control behavior of Americans in regard to smoking elsewhere in HEW.

Now, finally, Mr. President, let me run down the list of a few of the names of this stacked jury upon whose advice the Congress and the presidency is dependent. First, there is Dr. Horn, whose name after this speech should be a household word. He was a former employee of the American Cancer Society. Second, there is Mary Lasker. She is a health lobbyist second to none, and a power behind the scenes at NIH under Presidents Kennedy, Johnson, and now, I am afraid, my

*Newly established Committee.

President. She is a member of the board of the American Cancer Society. Third, there is Emerson Foote. He is a retired advertising agency man who fattened on cigarette accounts, and who now produces the Madison Avenue flourish to the antismoking and birth control campaigns. He is the author of full page ads headlined, "The Population Bomb Is Ticking." He is a member of the board of the American Cancer Society. Fourth, there is Luther Terry, the surgeon general who in 1964 was propelled from bureaucratic anonymity to media celebrity through antismoking campaigns. He is working for the American Cancer Society. Fifth, there is Jonathan Rhoads, who is a former president of the American Cancer Society. Sixth, there is Ernest Wynder, a tireless worker, who has built his career literally on the backs of the white mice he has painted with smoke condensate. Last year his HEW grants totalled nearly a million dollars and he has received two million dollars this year. Another on the panel is James Gilmore. I do not know him and do not impugn in any way his ability. But I must wonder at his expertise. He owns an advertising agency, a broadcasting station, and an automobile dealership in Kalamazoo. He is also heir to the Upjohn drug fortune.

I do not question the intentions or motivations of any of these men and women. I ask only this, Mr. President: How long will the Congress permit scientific policy to be based on prejudice, no matter how well intentioned, rather than truth, no matter how painful? How long will this body suffer from practices it has suffered for far too long? The history of progress in America has been built on the surrender of fictions to fact, myths to realities, falsehoods to truth. It is time for this body to help America shake off the chains of a prejudiced past, and to begin right now.

What, then, should be done? First and foremost, Mr. President, the Congress should be inoculated against the possibility of tainted information caused by a conflict of interest. Clearly, the Horn report should cease publication. The activity should be removed from his hands entirely, and perhaps, removed to a safe position entirely beyond the Department of Health, Education, and Welfare. The National Science Foundation, the National Academy of Science or the American Association for the Advancement of Science are possibilities to be explored. Perhaps the Congress should develop its own capability by enhancing the role of the newly established Office of Technological Assessment with this and similar missions.

Let us frankly face the monumental task before us. The health effects of environmental pollution, occupational hazards, poverty, and cigarette smoking are almost entirely unsolved problems, as is the nature and causation of the diseases they have been associated with. The present tendency, fostered by zealous persons and crusading groups, is to underplay the results of industrial air pollution, occupational exposure, and low-income living conditions while overestimating the effects of smoking.

No greater obstacle to progress exists than the tendency to substitute guessing for knowing and to fail to clearly and openly distinguish one from the other. If we cannot know the health effects of air pollution because of the confounding effect of cigarette smoking, then we also cannot know the health effect of cigarette smoking because of the confounding effect of air pollution. Let the Congresss demand that HEW say so, and end the separate-and-unequal practice of scapegoating tobacco.

Mr. HUDDLESTON. Mr. President, I rise to speak briefly in response to the remarks of my senior colleague from Kentucky. I would like to emphasize the necessity for the Government to be very careful in taking any actions that would have an adverse economic impact, not only upon the farmers in my State of Kentucky and in other tobacco growing States, but also upon this entire Nation, by precipitously pursuing policies that may be based upon inadequate research and inadequate scientific knowledge in relation to smoking and the use of tobacco in this country.

There are some 56,000 tobacco farmers in my State. Most of them are small farmers, which is typical throughout the Nation in tobacco growing States. These small Farmers could be seriously and adversely affected by a number of recently mentioned antitobacco proposals, which may have little scientific backing.

It is important that we have a complete scientific picture so that we know what the health/smoking relationship is and what various courses of action are open and advisable before we take adverse action at the tobacco production and processing level.

Our State of Kentucky has tried to do something along this line. We have imposed additional taxes on cigarette sales for the purpose of research into the problem. These tax revenues have been allotted to the University of Kentucky, which currently has some $4 million for research and which anticipates receiving some $3 million this year from the tax. Those funds will be used to try to find out what, if any, are the harmful effects of tobacco and, whatever they are, how they might be eliminated, so that this crop may continue, and that those who benefit from it can continue to receive the economic advantages that result from it.

Since tobacco is closely involved in our export trade, it could be very detrimental to our balance of payments to act in a manner that would seriously affect the economic situation as it relates to tobacco, especially in light of current research deficiencies. Therefore I would urge that the Government be more concerned about intensifying the effort that has begun in our State of Kentucky to determine precisely what, if any, the harmful effects are and how they might be eliminated, rather than just trying to eliminate this cash crop grown by thousands of citizens of my State and Nation.

APPOINTMENTS BY THE VICE PRESIDENT—THE UNITED NATIONS COMMITTEE ON PEACEFUL USES OF THE SEABED AND OCEAN FLOOR

The PRESIDING OFFICER (Mr. HASKELL). The Chair, on behalf of the Vice President, appoints the following Senators to attend the meetings of the United Nations Committee on Peaceful Uses of the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction, to be held in New York, March 5 to April 6, 1973 and in Geneva, Switzerland, July 2 to August 24, 1973: As advisers—the Senator from Rhode Island (Mr. PELL) and the Senator from New Jersey (Mr. CASE); as observers—the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Alaska (Mr. STEVENS).

ADJOURNMENT OF THE TWO HOUSES FOR THE LINCOLN DAY HOLIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 105.

The PRESIDING OFFICER (Mr. HASKELL) laid before the Senate a message from the House of Representatives on House Concurrent Resolution 105, which was read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, February 8, 1973, it stand adjourned until 12 o'clock meridian, Monday, February 19, 1973.

Mr. ROBERT C. BYRD. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 1, line 4, strike out "1973," and insert: "1973, and that when the Senate adjourns on Thursday, February 8, 1973, it stand adjourned until 11 o'clock a.m., Thursday, February 15, 1973."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution as amended.

The concurrent resolution (H. Con. Res. 105) was agreed to, as follows:

H. CON. RES. 105

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, February 8, 1973, it stand adjourned until 12 o'clock meridian, Monday, February 19, 1973, and that when the Senate adjourns on Thursday, February 8, 1973, it stand adjourned until 11 o'clock a.m., Thursday, February 15, 1973.

Mr. ROBERT C. BYRD. Mr. President, I ask that the title be amended appropriately.

The title was amended so as to read:

Providing for an adjournment of the Congress commencing February 8, 1973.

ORDER FOR ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS AIKEN AND JAVITS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the two leaders or their designees on tomorrow under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Senators AIKEN and JAVITS.

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

ORDER FOR SENATE TO GO INTO EXECUTIVE SESSION TOMORROW TO CONSIDER THE NOMINATION OF CASPAR W. WEINBERGER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from New York (Mr. JAVITS), the Senate go into executive session on tomorrow for the purpose of considering the nomination of Mr. Caspar W. Weinberger.

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

ORDER FOR LIMITATION OF TIME ON THE NOMINATION OF MR. WEINBERGER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, with respect to the debate on the nomination of Mr. Weinberger tomorrow, there be a time limitation on such debate of not to exceed 3 hours, with a vote to occur on the confirmation at no later than 1 p.m., the time to be equally divided between and controlled by the distinguished Senator from Louisiana (Mr. LONG) and the distinguished Senator from New Jersey (Mr. WILLIAMS), with the understanding that out of that 3 hours the distinguished senior Senator from Massachusetts (Mr. KENNEDY) be allotted 1½ hours for the fielding out of such time to other Senators.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF CASPAR W. WEINBERGER TO BE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the control of the time on tomorrow for debate on the confirmation of Mr. Weinberger be as follows: 1 hour under the control of the distinguished senior Senator from Louisiana (Mr. LONG), 1 hour under the control of the distinguished senior Senator from Massachusetts (Mr. KENNEDY), and 1 hour under the control of the distinguished Senator from New Jersey (Mr. WILLIAMS).

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:30 a.m.

After the two leaders or their designees have been recognized, the Senator from Vermont (Mr. AIKEN) will be recognized for not to exceed 15 minutes, to be followed by the recognition of the Senator from New York (Mr. JAVITS) for not to exceed 15 minutes, at the conclusion of which the Senate will go into executive session to consider the nomination of Mr. Caspar W. Weinberger, of California, to the office of Secretary of Health, Education, and Welfare, with debate on the nomination not to exceed 3 hours, and the vote on the nomination to occur not later than 1 p.m. tomorrow. That vote will be a yea-and-nay vote.

ADJOURNMENT TO 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to, and at 6:55 p.m. the Senate adjourned until tomorrow, Thursday, February 8, 1973, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, February 7, 1973:

DEPARTMENT OF THE INTERIOR

John Henry Kyl, of Iowa, to be an Assistant Secretary of the Interior, vice James R. Smith, resigned.

Jack O. Horton, of Wyoming, to be an Assistant Secretary of the Interior, vice Harrison Loesch, resigned.

INTERSTATE COMMERCE COMMISSION

Alfred Towson MacFarland, of Tennessee, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1978, to which office he was appointed during the last recess of the Senate.

Willard Deason, of Texas, to be an Interstate Commerce Commissioner for a term of 7 years expiring December 31, 1979; reappointment.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 7, 1973:

FEDERAL TRADE COMMISSION

Lewis A. Engman, of Michigan, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1969.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

COMPREHENSIVE OLDER AMERICANS SERVICES AMENDMENTS

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 1973

Mr. ROUSH. Mr. Speaker, I would like to include in the CONGRESIONAL RECORD my letter to the chairman of the Select Subcommittee on Education, which subcommittee is now holding hearings on the Comprehensive Older Americans Services Amendments.

This is an important bill and I have received notification of support of this proposal from a number of constituents. I include my remarks to the chairman, Mr. BRADEMAS, at this time.

CONGRESS OF THE UNITED STATES,
Washington, D.C., February 7, 1973.

Hon. JOHN BRADEMAS,
Chairman, Select Subcommittee on Education, House Education and Labor Committee, U.S. House of Representatives, Washington, D.C.

DEAR JOHN: I would like to add my remarks to those appearing before the Select Subcommittee on Education to discuss the Comprehensive Older Americans Services Amendments. I am a co-sponsor of this legislation with you, and I am an enthusiastic supporter of this bill.

Actually we should not have to even raise this issue, because this legislation was passed unanimously in both the House and the Senate last year, but vetoed by the President after the 92nd Congress had adjourned. I believe the Congressional intent is clear.

Re-passage as soon as possible is imperative since the pocket veto made it impossible for Congress to once again in the 92nd Congress re-assert its legislative will on this legislation.

This year's bill is a repeat of the one passed so unanimously before.

The House report of last year on the Older Americans Act amendments leaves no doubt as to the success of the various programs included to provide special services to older persons. As the House Committee Report noted: "The Older Americans Act has been an important Federal vehicle for the development and coordination of social services for older Americans."

No other legislation fills the particular objectives of this bill. The Medicare provisions of Social Security handle health problems and various kinds of pension bills deal with retirement benefits. But the Older Americans Act of 1965, which this legislation amends and expands, has accomplished the following.

In 1971 these included: community programs on aging which involved older volun-