SENATE—*Thursday, March 1, 1973*

The Senate met at 11 a.m. and was called to order by Hon. J. BENNETT JOHNSTON, a Senator from the State of Louisiana.

PRAYER

Dr. John E. Howell, pastor, Crescent Hill Baptist Church, Louisville, Ky., offered the following prayer:

Lord God, we need Your strength to persevere in the cause of good when we grow weary from the struggle. We need Your encouragement when we are discouraged, Your patience and wisdom when our solutions do not match the magnitude and complexity of our problems. We believe, Father, that You are personally interested in each of us and in our needs. We also believe You have a mission for each of us to fulfill in Your service and in that of our fellows. Grant to the Members of the Senate today a keen awareness of Your presence, power, and encouragement as they renew their work.

We ask this in the name of Him who revealed both Your high expectations of us and Your continuing mercy. 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 second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 1, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. J. BENNETT JOHNSTON, a Senator from the State of Louisiana, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. JOHNSTON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 28, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 57, H.R. 3694.

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

The legislative clerk read as follows:

H.R. 3694, to amend the joint resolution establishing the American Revolution Bicentennial Commission.

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

There being no objection, the Senate proceeded to consider the bill, which was ordered to a third reading, was read the third time, and passed.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination on the Executive Calendar.

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

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

DEPARTMENT OF THE INTERIOR

The second assistant legislative clerk read the nomination of Jack O. Horton, of Wyoming, to be Assistant Secretary of the Interior.

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

Mr. ROBERT C. BYRD. 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. ROBERT C. BYRD. 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 FOR ADJOURNMENT

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

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

Mr. ROBERT C. BYRD. Mr. President, I anticipate that the Senate will complete action today on the bill to require the Secretary of Agriculture to carry out the rural environmental assistance program, in which event the Senate would then adjourn over until Monday next.

Mr. President, I yield the floor.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from New Jersey (Mr. WILLIAMS) is now recognized for not to exceed 10 minutes.

THE ADMINISTRATION'S PROPOSED CHANGES IN MEDICARE

Mr. WILLIAMS. Mr. President, at this morning's session, Members of the Senate are all addressing themselves to one subject, the farcical yet tragic proposals of the President of the United States with respect to a heavy increase in the financial burden to be placed on our older citizens who are patients under medicare.

Mr. President, as chairman of the Senate Committee on Labor and Public Welfare which reported out S. 50, the Older Americans Act Amendments, I am very much pleased that the Senate approved the legislation by a vote of 82 to 9 on February 22.

The overwhelming victory justified the position of the committee that this legislation should be a top priority for older Americans.

It also clearly demonstrates that the Senate is deeply committed to improving social services for our elderly.

Last year, after this proposal received the overwhelming bipartisan support of both House and Senate, the President exercised a pocket veto to kill this urgently needed legislation.

This year, as Congress is reaffirming the need to improve services for older Americans, the President is recommending they actually be reduced by cutting the Government share of medicare costs.

I understand that on occasion Mr. Nixon has compared himself with Benjamin Disraeli, the famous British Prime Minister in the late 1800's.

Disraeli once wrote that—

Youth is a blunder; Manhood a struggle; Old Age a regret.

I am afraid that Mr. Nixon is taking Disraeli too literally in making such a strenuous effort to guarantee that old age will be a regret for those who need medical attention.

The Nixon administration, through the Department of Health, Education, and Welfare, has recently announced that it will propose legislation to change the already burdensome patient cost-sharing provisions included in the present medicare program.

But, the President is not suggesting that we should take steps to ease the financial plight of more than 20 million older Americans by reducing or eliminating expensive charges for medical services.

To the contrary, Mr. Nixon is asking that we saddle the aged of this country with an additional responsibility for $893 million more than they are already paying out of their own limited resources for health care.

The injustice of the administration proposal, to me, is horrifying.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Under present law, every beneficiary who enters a hospital must pay an initial deductible amount equal to the national average cost of a day's stay in such facilities.

When we enacted this program, this charge amounted to $40.

Since then, the inpatient hospital deductible has been increased five times, to $44, $52, $60, $68, and recently to $72.

But beyond this initial hospital charge, the beneficiary incurs no costs until the 61st day of hospitalization—that is, at present.

Between the 61st and 90th days of a hospital stay, the patient is charged a daily amount equal to one-fourth of the initial deductible amount.

In addition, medicare patients have a 60-day lifetime reserve but they must pay a daily amount equal to one-half of the initial deductible.

In place of this cost-sharing system—which I would like to have changed to reduce the burden on the elderly, who by definition are on reduced incomes—the President is proposing that each medicare patient pay an initial deductible amount equal to 1 day's hospital charges, plus daily amounts equal to 10 percent of the charges incurred by the patient for each remaining day spent in a hospital or skilled nursing facility.

According to HEW:

> The proposed system has the advantages of tying cost-sharing to actual charges and services used, instituting it at a point where it is likely to discourage over-utilization, and eliminating high cost-sharing at the end of a long hospital stay.

That is the rationalization—misguided, I think; grossly misguided—of HEW.

Each of these arguments is absurd.

In the first place, physicians, and not patients, control admissions to hospitals, lengths of stay, and the range of ancillary services required by the patient.

It is very doubtful that cost-sharing requirements imposed on the patients are effective as utilization controls. I would hope that any patient's length of stay in an institution would be governed by the medical rather than false economic considerations. If medical judgments are not working, then Congress should address itself to that matter and not penalize the aged for poor medical practice.

In the second place, the administration's plan does not eliminate high cost-sharing at the end of a long hospital stay.

For example, during the first month of fiscal year 1973, the number of covered days of care per inpatient hospital claim averaged 11.3 days.

The majority of beneficiaries would be faced with substantially larger out-of-pocket expenses for hospital care than they now incur.

Even those who are hospitalized for a long period of time could be harmed by the administration's proposals.

For example, the patient who now spends 61 days in the hospital pays the initial deductible of $72 and a coinsurance amount of $18, a total of $90.

Under the President's proposal, the same patient would incur out-of-pocket expenses of almost $440 for the same hospital stay of 61 days.

Nobody will benefit from a proposal that is designed to transfer hundreds of millions of dollars into a liability for the aged who are ill.

The President also is recommending in this harsh package of new medical expense that the deductible under the part B, or supplementary medical insurance program, be increased from $60 to $85 and that the coinsurance payment of the balance be raised from 20 to 25 percent.

Congress just increased the deductible from $50 to $60 last year, partly in response to the President's request.

Now we are told that there is a pressing need to make additional increases in the cost-sharing devices included in this program.

In addition, the Government is raising the part B premium payments from $5.80 a month to $6.30 a month in July.

Mr. President, the proposals are not only harsh and tragic but also absurd. Indeed, to use a lighter word, they are plain nonsense.

I intend to do everything I can to defeat these ill-considered, irrational, and excessively burdensome changes in the cost-sharing provisions proposed by the administration. On the record of the Senate, I think I will be joining more than a majority—I think it will be an overwhelming number of Members of this body—in resistance to these ill-conceived irrational, and excessively burdensome changes that produce new charges upon older Americans.

If anything, I believe that a President who is sensitive to the pressing needs of the elderly would try to reduce or eliminate these ineffective approaches to utilization control.

Most unfortunately, this is not the case.

It is frightening to realize the adverse effect which this proposal will have on our senior citizens.

It can only result in denying them vital hospital care.

Nine out of 10 older Americans will be hospitalized at least once before they die.

Two-thirds will be hospitalized at least two times after they reach age 65.

In our system of values, the preservation of life must have the very highest priority.

I will wholeheartedly resist any administration proposal that denies the importance of that priority.

I will not sacrifice the health needs of our senior citizens because the administration believes their suffering may provide some marginal budgetary savings.

The only heartening aspect of this scandalous administration proposal is the opposition it is receiving today from the Senate.

As the former chairman and currently the ranking member of the Senate Special Committee on Aging, I can observe that this committee has worked for several years to relieve the elderly from the crushing burden of high medical costs. We have had considerable success. We certainly cannot fall back as far this way as the President proposes.

Therefore, I am delighted to see so many of our colleagues joining today to oppose this tragic proposal.

Our message is clear. I trust that the administration will heed it.

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

Mr. WILLIAMS. I yield.

Mr. SPARKMAN. I believe the Senator has touched on some very vital points. I agree with him fully with reference to what he has said.

Does not the Senator feel that one of the big troubles with the President's retracting program has been that it hits so heavily the people who are less able to bear the extra burden that is imposed, and is that not particularly true with reference to medicare and medicaid and the other things the Senator has mentioned?

Mr. WILLIAMS. Without question. This is the last place I would expect an administration to impose heavy, new burdens. These are the people, as the Senator from Alabama suggests, who can least afford to pay a new and crushing burden of cost for, of all things, lifesaving medical care.

Mr. SPARKMAN. Mr. President, no one in Congress is more concerned about the problem of inflation than the senior Senator from Alabama. In August of 1970, the Congress passed legislation authorizing the President to institute wage and price controls, and on several occasions thereafter, I urged President Nixon to use this authority. Unfortunately, he waited until August of 1971 before doing anything to bring spiraling prices and wages under control. Much valuable time was lost. Nevertheless, when the President did propose wage and price controls, my committee and the Congress supported him in setting up controls. We continue to support the effort being made to stop inflation.

I know that one of the steps that must be taken in the fight against inflation is to hold down Federal spending. I am in favor of holding the line on total Federal expenditures, and, to use a popular phrase, "I want to make that perfectly clear."

Mr. President, inflation hurts us all. But its major impact, and its most tragic effect, is upon the older citizens of this country—those who must live on fixed incomes, and, I might add, these fixed incomes are pitifully small in so many, many instances. Recognizing this, it is beyond belief to me that, in establishing his priorities with regard to where to cut Federal expenditures, President Nixon would choose the elderly and the disabled. The President's recommendations with regard to medicare and medicaid single out elderly and disabled Americans to be major victims of the budget ax.

Major changes are proposed in the administration's fiscal 1974 budget. Of special significance, the new proposal would add $345 million to the hospital costs for medicare patients during the first 6 months of 1974. Under present law the elderly pay $72 and nothing thereafter for their first 60 days in the hospital. The administration proposal, however, would make medicare patients pay for the actual hospital room and board charges for the first day plus 10 percent of all subsequent hospital room and board costs. Approximately 5 million

medicare beneficiaries are expected to be hospitalized during the next fiscal year.

Additionally, the administration proposes to raise the deductible for doctor bills under part B from $60 to $85 and increase the patient's coinsurance costs from 2C to 25 percent of the balance. A $600 physician charge now costs a medicare beneficiary $168. However, the patient's share of these costs would be boosted to $213.75 under the new proposals. Nearly 11.6 million medicare beneficiaries are expected to require reimbursable physician and other qualifying services during fiscal 1974.

The budget also proposes to eliminate Federal support for adult dental care under medicaid.

Mr. President, the Nixon administration has also proposed harsh measures in the field of housing, and many of these proposals fall heavily upon our older and disabled people.

New commitments for public housing, rent supplements, section 235 homeownership, and section 236 rental assistance have been suspended, effective January 5, 1973, pending the review of Federal housing programs by the administration. In the fiscal 1974 budget, the administration gave this rationale:

> Additional tax dollars cannot be committed to those programs which impose a heavy burden on future budgets, yet have proved to be ineffective.

Other major developments in the field of housing and community development include:

First. No new funding has been requested for the section 202 housing for the elderly and handicapped program;

Second. A number of programs, including model cities, urban renewal, water and sewer grants, open space, public facility loans, rehabilitation loans, and neighborhood facilities, would not have any new projects approved for fiscal year 1974. Instead, these programs would be merged into a proposal urban community development revenue-sharing package to begin in mid-1974; and

Third. Nearly $1 billion of HUD administered funds have been impounded.

Mr. President, in holding the line on Federal expenditures, and setting our priorities, I hope that the Congress will consider housing and medical care for elderly and disabled people to have the highest priority. In my view, they should be considered just as essential as food and clothing for our people.

SENATOR FULBRIGHT OPPOSES THE PRESIDENT'S PROPOSED CUTBACKS IN MEDICARE BENEFITS

Mr. WILLIAMS. Mr. President, the distinguished junior Senator from Arkansas (Mr. FULBRIGHT), has advised me of his full support for the sentiments which are being expressed in this colloquy in opposition to the President's proposed cutbacks in medicare benefits. He had intended to be on the floor at this time to voice his concern about the adverse effects that the administration's plan would have on the elderly. At this hour, however, the Senator from Arkansas is returning from his State, where he has just addressed his legislature. Therefore, Mr. President, I ask unanimous consent that his prepared remarks appear at an appropriate place in the RECORD.

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

STATEMENT BY SENATOR FULBRIGHT

Mr. President, the Nixon administration has made a particularly regrettable medicare recommendation in its budget submitted to Congress last month. I refer to the proposal to sharply increase the costs of medicare by requiring the elderly who benefit from the program to increase their payments.

Under the law now in effect, medicare patients pay an initial $72 deductible charge for hospitalization and nothing thereafter until the 61st day in the hospital. The Nixon proposal would require medicare patients to pay full hospitalization charges for the first day, plus ten percent of all subsequent room and board charges. As for medicare doctor services, the administration would raise the deductible from $60 to $85 and increase the patient's share of the cost thereafter from 20 percent to 25 percent. It has been estimated that this proposal would have the aged paying an additional billon dollars annually for the same medical care they are now receiving under this program.

Mr. President, a responsible budget is certainly to be applauded, but to make the victims of these economy measures the elderly who benefit so much from the medicare program is, it seems to me, a shocking display of insensitivity to the real needs of our people. Increasing the burden on the old and sick is not the way to correct our hard-pressed economy. There are many areas of our government—particularly the unnecessary, exotic weapons systems—in which substantial cuts could and should be made, and in this regard I would urge the administration to review its priorities.

The Nixon medicare recommendations, if adopted by the Congress, will simply aggravate the health care problems of the elderly, who would be discouraged from seeking adequate medical care because of the increased financial burden. I hope that my colleagues concur in my feeling that this ill-conceived proposal should be flatly rejected.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged against the time of the Senator from Mississippi (Mr. EASTLAND) under the order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Washington (Mr. MAGNUSON) now be recognized under the previous order out of order.

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

THE PRESIDENT'S PROPOSED CUTBACKS IN MEDICARE

Mr. MAGNUSON. Mr. President, I rise to discuss very briefly the President's budget as it relates to the medicare program. First, I ask unanimous consent to have printed in the RECORD at this point a comparison between present medicare coverage and the coverage which would be provided under President Nixon's plan.

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

PRESENT SYSTEM FOR HOSPITAL COVERAGE

Days in Hospital:	*Patient pays*
First day	$72
Second to 60th day	0
61st to 90th day	18
91st to 150th day	36

NIXON BUDGET PLAN FOR HOSPITAL COVERAGE

First day in hospital, patient pays total cost.

Second to 150th day in hospital, patient pays 10 percent of cost.

PRESENT SYSTEM OF PHYSICIAN COVERAGE

The patient pays the first $60 and 20 percent of the rest of his doctor bills each year.

NIXON BUDGET PLAN FOR PHYSICIAN COVERAGE

The patient would pay the first $85 and 25 percent of the rest of his doctor bills each year.

Mr. MAGNUSON. Mr. President, the administration contends that its plan would discourage persons from seeking hospitalization when they do not really need it, since they would have to pay 10 percent of the bill for the first 60 days. The administration also maintains its plan would be better for those who are hospitalized longer than 60 days.

In my mind it is highly questionable whether medicare patients get unnecessary hospitalization since it is their doctors who put them in the hospital. There is a human element involved here, too. I suppose a few people might stay in the hospital longer than they should, but they are very, very few. The people I have known who have gone to the hospital could hardly wait to get out; in fact, most people want to get out before the doctors want them to, and they comprise 98 percent of the people.

Now, while the President's plan might—and I emphasize "might"—somewhat reduce the cost for the few needing hospitalization for more than 60 days, it would penalize the great majority who require fewer than 60 days of hospitalization.

President Nixon's proposed cutbacks in medicare perfectly illustrate the nature of his entire fiscal year 1974 budget. No other proposal thus far advanced by this administration demonstrates so clearly just how consistently its priorities are inconsistent, in my opinion, with this country's real needs.

As chairman of the Appropriations Subcommittee on Labor-HEW, I have had a ringside seat from which to watch this administration at work on the budget. And when it comes to appropriations for the sick or the elderly or the poor they wield a mighty big ax. As we all know, President Nixon has vetoed five different appropriations bills for Labor, Health, and Education.

Now, while the President recommends raising military spending by about $5 billion, he prepares to chop billions from programs here at home. At least $900 million will come out of the medicare program if the President's budget proposal prevails.

And that is a very conservative figure. It may well be a billion or more. Now let us look at precisely what the President's budget recommends for medicare coverage of hospitalization and physician services.

Presently, medicare patients pay $72 for their first day in the hospital and then pay nothing more for the next 60 days. Under President Nixon's plan they would pay the whole bill for the first day and 10 percent of the bill for the next 60 days.

And that bill for the first day in the hospital might well be a hundred dollars or more. The average hospital room in the United States comes close to $100 a day. It varies, but it comes close to that.

Presently, medicare patients pay the first $60 in doctor bills and 20 percent of the remainder. Under the President's plan, they would have to pay the first $85 and 25 percent of the rest.

If this President's proposals prevail the Nation's senior citizens will pay for those cuts. They will pay either out of their own meager incomes or they will pay with the serious consequences that come from not receiving health care when it is needed.

Neither of those alternatives is acceptable to me. Apparently, they are not acceptable to the great majority of the public, either. A Harris poll published Monday showed that 92 percent of the public opposed plans to require medicare patients to pay more for their health care.

Some persons may say, "Well, the increase to the medicare patient will be a small amount." But when someone is living on the meager income that the elderly live on, it is a big amount. The question, then, is simply this: Will the administration's view of the Nation's priorities prevail over the overwhelming consensus of the Nation itself?

The answer must be "No," for 20 percent of this country's senior citizens are scraping by on incomes that fall below the poverty line. They need more help—not less.

Ultimately, Congress will have to enact national health insurance to assure health care for every American. I have advocated that kind of a program for many years and will continue to work toward the day when national health insurance becomes a reality. But in the meantime we must improve medicare coverage. That is why I have joined with the distinguished chairman of the Special Committee on Aging (Mr. CHURCH) to introduce S. 631, which would extend medicare coverage to out-of-hospital prescription drugs.

We have also jointly introduced S. 471 to provide property-tax relief for older Americans, and I await with great interest the legislation the President has promised to submit to provide such relief.

Everybody talks a great deal about property-tax deduction. It is primarily a local matter, but the Federal Government must be concerned also.

I will also be interested in the administration's response to S. 632, introduced by the distinguished majority leader (Mr. MANSFIELD), the distinguished Senator from Idaho (Mr. CHURCH), the distinguished Senator from California (Mr. CRANSTON), and myself, which would raise to $3,000 the amount a retired person may earn without losing any of his social security benefits.

These bills would help the same people—the senior citizens—who would suffer under the administration's medicare proposals.

In closing, let me say that I agree with the President that Federal spending must be held down to avoid further inflation or new taxes. I will support cuts in programs that have run their course or proved ineffective. But I will not support a budget that proposes to find the money for increased military spending or foreign aid by taking it out of the hide and health of older Americans.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Washington (Mr. JACKSON) be recognized under the order at this time.

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

THE MEDICARE PROGRAM

Mr. JACKSON. Mr. President, in 1965 we made a promise to our aged and disabled citizens to help relieve them of the severe economic burden of high health care costs through adoption of the medicare program. This Federal health insurance program has enhanced the dignity of our Nation's 23 million senior citizens by allowing them to seek necessary medical care without the worry of becoming bankrupt, dependent, or having to go on welfare.

It is therefore not just disappointing, it is appalling that the administration has made recommendations for medicare which would make a good majority of our senior citizens worse off than before this program was established.

Even under the existing medicare program, less than 50 percent of an aged person's health care costs are covered. Now that the President has recommended that medicare patients pay all first-day hospital room and board charges plus 10 percent of all the daily room and board charges after that, this situation can only deteriorate further. Currently, recipients pay a $72 first-day hospital deductible charge and nothing more through the 60th day of hospitalization. The administration also wants supplemental medicare benefits lowered by forcing the patients to pay an initial deductible of $85 instead of the present $60 and to pay 25 percent of the total bill instead of the 20 percent they now pay. For the aged and disabled, these proposals will easily wipe out any net economic gain made through the passage of last year's 20-percent increase in social security benefits.

Those of us in the Congress will recall that the administration fought tooth and nail against the social security increase. However, when the Congress passed it, the administration sent out mailings at taxpayers expense attempting to mislead the Nation's elderly into believing the President had supported the increase. And the hand that gave not then is the hand that now taketh away. The President would negate the increase in pension benefits by taking away an equivalent amount in medicare benefits. Instead of delivering on the President's promise to the elderly in a political speech last October that their economic problems would be the first order of business in our next Federal budget, the administration is breaking faith with our senior citizens.

The rationale given by the administration for this decrease in health care coverage for the elderly is twofold: First, they claim they want to give medicare patients a greater awareness of the cost of their hospitalization—and hence, decrease utilization of hospital facilities; and secondly, they claim it is an economy measure necessary to decrease Federal expenditures.

I reject the administration's arguments. I believe the existing $72 first-day deductible for the aged and disabled on low, fixed incomes is high enough to discourage misuse of hospital facilities. Furthermore, I believe the consequences of reductions in expenditures should be borne by those most able to absorb the costs—not by that segment of society least able to pay. We should not force our aged and disabled citizens to suffer financial disaster in order to receive necessary and proper medical attention.

These proposed cuts represent a broken promise which will leave a great number of our senior citizens out on the proverbial limb. Relying on the Government promise of medical insurance, many dropped their existing private health insurance policies and cannot now reinstate them without incurring financial hardships.

Let me quote from a letter of a constituent of mine who wrote me concerning the medicare problem:

> When Medicare was adopted, Grandpa dropped his King County Medical Insurance as being unnecessary, as did many older people I imagine. Now he is stuck (I should say his daughter and family) with trying to come up with money or having to go on welfare. This seems unfair. Here is a man who has never been on welfare, a pioneer of Seattle, and who figured he would be taken care of by Medicare when the need arose. Now it seems he has been given the proverbial shaft by the U.S. Government.

I could not think of a better description for the treatment this Nation's medicare patients are getting from the administration. Instead of stepping backward by allowing the administration to subvert the intent of Congress, I believe we should be stepping forward and doing more—not less—to provide health care and economic security for our older Americans. Only in this way can we insure that senior citizens will not skimp

on the basic necessities of food and shelter in order to pay for essential medical attention.

Simply stated, our senior citizens deserve better treatment from the country they worked to improve and the Government they supported financially for so many years.

BUDGET BALANCING AT THE EXPENSE OF THE SICK AND ELDERLY

Mr. EAGLETON. Mr. President, I am happy to have this opportunity to reiterate my opposition to the administration's medicare proposals.

Referred to euphemistically in the President's budget as "cost-sharing reforms," in plain English they would require the elderly to pay a greater share of their hospital and medical bills than they now do.

The cost to a medicare beneficiary for an average hospital stay would be more than doubled under these proposals.

The medical insurance deductible would be increased by $15, and the beneficiary would have to pay 25 percent, rather than 20 percent, of his remaining medical bills.

All too many senior citizens are now hard pressed to pay for the health care they need.

Before they ever see their social security check, the part B medical insurance premium has been deducted from it—and that premium is higher every year.

Yet medicare pays nothing toward the cost of the drugs many of them require on a continuing basis. And every time they see the doctor, they must dig into their pockets for at least 20 percent of the bill. Where fees exceed those charges allowed by medicare, they pay an ever larger share.

Last week I received a letter concerning the proposed reductions in medicare benefits from the Reverend Albert W. Bunch, pastor of the New Salem Baptist Church in Marshall, Mo. He wrote:

> Every day I see elderly people who are struggling to survive. Many do not because they cannot afford to eat. Medical care is a luxury. Last week I buried a proud old lady who died of "pneumonia." Unfortunately she was suffering from severe malnutrition and needed medical care which she could not afford. She could not afford groceries either. So she died.

Mr. President, I believe the responsibility of this Congress is to find ways to lower—not raise—economic barriers to the health care older people need and deserve to have.

A recent St. Louis Post-Dispatch editorial makes the interesting observation that the President's budget gives no indication that proposals to reduce medicare benefits will be accompanied by proposals to reduce the payroll tax and the part B monthly premium which finance those benefits.

I ask unanimous consent that this editorial be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See Exhibit 1.)

Mr. EAGLETON. Mr. President, I am confident that efforts to balance the budget at the expense of the sick and the elderly are going to have very rough sledding in the 93d Congress. They will not have my support.

Mr. President, I yield the remainder of my time to the Senator from Minnesota (Mr. MONDALE).

EXHIBIT 1

SHIFTING THE COST TO THE ELDERLY

In his budget message, President Nixon said he wanted to "reform Medicaid and Medicare to reduce financial burdens for aged and disabled patients who experience long hospital stays . . ." He did not elaborate though the budget document itself reveals how he plans to do this. Mr. Nixon wants to shift $700,000,000 a year in medical and hospital bills from the Government to the nation's 23,000,000 aged and disabled.

Under present law, those covered by Medicare—almost everyone over age 65—pay $72 for the first day in the hospital. From then until the sixty-first day all care is free. From the sixty-first to the ninetieth day the patient pays $18 a day. Under the Administration's proposal, which would take effect in January 1974, the Medicare patient would pay the actual hospital charge the first day and after that would pay 10 per cent of the actual charge every day for as long as he remained.

It is true that this would save money for those Medicare beneficiaries who stay in the hospital more than 60 days, but only 1 per cent of all Medicare patients remain this long. Thus, for 99 per cent the cost of hospitalization would rise, a change that by most definitions hardly qualifies as a reform. In addition, coverage for physician's fees would be reduced. Instead of the initial deduction for physicians' fees being $60, it would become $85, and instead of the patient paying 20 per cent of physicians' fees, he would pay 25 per cent.

One rationale advanced for these changes by the Department of Health, Education, and Welfare is that they would provide "a cost awareness on the part of medical care consumers . . ." But if this is an objective, along with greater protection for those hospitalized for long periods, then the $700,000,000 in annual savings to the Government ought to be reflected in a lower Social Security tax, which finances Medicare benefits as they now exist. The President has not proposed a lower Social Security tax, however, nor has he suggested that the monthly charge imposed on retired persons for physicians fee insurance be reduced.

Congress ought to examine the Administration proposal with a skeptical eye.

Mr. MONDALE. Mr. President, I thank the Senator from Missouri for yielding. I am pleased to join with him and with the Senator from New Jersey (Mr. WILLIAMS) and other Senators in disagreeing with the President's unbelievable suggestion that $1 billion should be added to the cost of older Americans' health care. For many older Americans this will mean that the privilege of having decent health will be beyond their financial reach in this, the richest society in the world. It will have been said to them that in the administration's system of priorities there are things much more important than the elemental question of decent health for those who, above all others, have contributed to it.

I cannot believe that this is what the American people want. In fact, I know that it is opposed by virtually all Americans. A recent poll indicates that well over 90 percent of the people feel that it is an inadvisable and outrageous proposal. It is estimated that the national cost would increase the cost of medicare by $1 billion, and that the cost for the first day's hospitalization would rise from the present $72 to almost $200. That may not sound like much money to some people. However, if anyone talks to older Americans throughout the country and discovers what they have to do to save a single dollar in order to make ends meet, the disaster of that kind of treatment becomes apparent.

The changes in part B are expected to cost beneficiaries $0.6 billion in 1974 alone.

In Minnesota we have 17,300 medicare recipients. The estimated increase in State costs would be more than $250,000 in the first half of a year.

Minnesota officials make the point that the first day charges would be particularly damaging in Minnesota, where a first day's bill could easily run to $500, which would certainly cripple the opportunity of medicare beneficiaries to get the treatment they need.

I remember that a few years ago we had hearings on the health problems of the elderly. I was shocked at that time to find out that one of the biggest problems with the illnesses of older Americans was that psychologically when they are faced with what they think are serious symptoms, instead of going to the doctor or the hospital immediately for care, a surprising percentage of them are afraid that those symptoms mean that that serious illness which they have always feared has finally struck.

It is therefore very important that, rather than reacting in that way, they feel encouraged to immediately receive the best medical or hospital care so that they will receive the help when it is most essential immediately upon the realization that they have such symptoms.

I believe that such things as reasonable charges for medicare, for physicians, for drugs and pharmaceuticals are all necessary to see that they not only receive a bill that is reasonable but also to make it clear to them that such care is available to help them, so that they will more quickly receive the care that they might not otherwise receive.

For all of these reasons I feel that this proposal is—and I do not know of any other word to use—an outrage. I do not think that the Congress is going to stand for it. I think that the American people should receive the care and attention they deserve.

This is another example of the mistaken priorities of this administration.

At a time when they are adding $1 billion cost on older Americans, we are ending the war in Vietnam and they are adding $8 billion to the defense budget.

At a time when they are adding $1 billion costs to the care for older Americans, they are asking Congress to approve an increase in military and foreign aid which now total in excess of $10 billion.

At a time when they are asking for this $1 billion to be added to the health charges of older Americans, they are discussing the possibility of sending $7.5 billion to North and South Vietnam for military and other kinds of aid.

At a time when they have just recently added another $3 billion or $3.5 billion of tax loopholes for the wealthy people of this country, they want to increase the health costs of older Americans by $1 billion.

I think this is all wrong. It is an abandonment of this Nation's longstanding bipartisan commitment to the social and humanitarian needs of our citizens and a commitment to older Americans for better health care in their later years.

I cannot think of anything that is less advisable than this proposal.

I am glad to join my colleagues in announcing my opposition.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, under the order Mr. SPARKMAN was to be recognized at this time.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi still has 3 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Nevada (Mr. CANNON) be recognized under that order at this time and out of order.

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

Mr. CANNON. Mr. President, I join with my Senate colleagues in expressing my surprise and disappointment over the administration's proposed increase in costs for people served by the medicare program.

We can see that under the President's plan, hospital patients would pay the full cost of the first day of care and 10 percent for all costs thereafter. Right now medicare patients pay the first $72 of the hospital bill and nothing after that until the 61st day of care. I cannot help wondering if this administration is so insensitive to the needs of older citizens that they have failed to fully comprehend the meaning of the proposed changes.

If the average hospital charge per day is $72, then it takes only a little adding to see that a 10-percent charge of the hospital bill could very well mean another $425 upon discharge after 60 days.

The President would also change the formula for meeting the physician's bill. The medicare deductible for part B physicians' bills is now $60 but the new budget would raise it to $85 and after that the patient's share on the balance would rise from 20 to 25 percent.

How many of our older Americans can afford this additional burden? I want to impress upon the administration that the majority of the older citizens in Nevada cannot afford to pay more. This proposed cutback on medicare comes at a time when the administration talks in general terms about legislative proposals to alleviate the health care crisis. How can the administration talk about such proposals and, at the same time, submit this outrageous request for reduction in medicare assistance? I submit, if Congress fails to prevent this drastic cutback on services to our senior citizens, that there is a credibility gap on Capitol Hill as well as at OMB and the White House.

Shifting the burden upon those who can least afford it is not the way to go about reducing Federal spending. Does the administration feel that, because Congress recently granted a social security increase, we must now cut back on medicare services? I am tired of this giving with one hand and taking back with another, and will refuse to be a participant in such a course of action. I will oppose the administration's proposal at every possible opportunity.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time for the quorum call be charged against the time of the Senator from Alabama (Mr. SPARKMAN).

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the order recognizing the distinguished Senator from West Virginia (Mr. RANDOLPH).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and 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 (Mr. METCALF). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed a joint resolution (H.J. Res. 196) to authorize the President to designate the period from March 4, 1973, through March 10, 1973, as "National Nutrition Week," in which it requested the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 196) to authorize the President to designate the period from March 4, 1973, through March 10, 1973, as "National Nutrition Week," was read twice by its title and referred to the Committee on the Judiciary.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the orders recognizing the distinguished Senators from Alabama (Mr. SPARKMAN), Mississippi (Mr. EASTLAND), and Arkansas (Mr. MCCLELLAN).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. 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.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the distinguished Senator from Utah (Mr. Moss) is now recognized for not to exceed 10 minutes.

MEDICARE CUTBACKS

Mr. MOSS. Mr. President, after examining the President's budgetary message with its wholesale cuts in many vital programs, I can begin to understand why the President did not want to come up to Congress to deliver the state of the Union message. And no cuts were more ill-advised and callous than those in medicare.

I certainly believe that we must limit Federal spending. Both Congress and the President must be more selective in how they use the taxpayer's money.

Incidentally, Mr. President, watching the "Today Show" this morning, one of the Governors said that Congress appropriated too much money. If he would have examined the budgetary figures, he would have found that this Congress has cut budgetary requests of the President from the total amount he asked for in every year since President Nixon has been in office.

However, I also believe that in cutting medicare the President has selected the wrong place to trim the budget, for these cuts would drastically increase medical costs for many older Americans who are already in severe financial straits.

Last year we passed a 20-percent increase in social security benefits. This was in recognition of the fact that more than one of our four seniors had incomes placing them below the poverty line. But unfortunately, even with the 20-percent increase, many of our elderly still do not have enough income for the basic necessities of life—food, shelter, and medical care.

In theory, the Medicare Act we passed in 1965 was supposed to cover the medical expenses of older Americans. But the reality is far different. This year older Americans will pay an average of $232 out of their pockets for health care, an amount that precisely equals what they spent for health care in 1965—before medicare was enacted.

Medicare now covers only 42 percent of the cost of health care for the elderly, compared to 50 percent 5 years ago. It is clear that medicare is paying for less and less of the health bill. The question is, "Why?"

Let us talk about doctor's services first. The law originally required seniors to pay $3 a month premium for coverage. In 1968 the monthly payment was raised

to $4. In December of 1969, President Nixon raised the premium 32 percent to $5.30 a month. The premium is now $5.80 a month and is scheduled to go to $6.30 in July of this year. In short, the cost of this part of the program has almost doubled. The annual cost is now $69.60 and soon will be $75.60.

When medicare began, the first $40 of the cost of physician's services was paid by the patient. In 1969, the first year of the Nixon Presidency, the sum was raised to $44. In January 1970, it was raised to $52 and then went to $60 last year. The President now proposes to raise this amount to $85.

In addition to this "deductible" portion of physician's services, seniors must pay 20 percent of the remaining doctor bill. President Nixon now proposes to raise this to 25 percent of the remainder.

The best way to understand what is happening is to compare what a patient with a $100 and a $200 doctor bill pays under current standards with what he would pay under the Nixon proposals.

On a $100 doctor's bill, the patient now pays $68 and medicare pays $32. Under the Nixon proposals the patient would pay $88.75 and medicare would pay only $11.25.

On a $200 bill, the patient now pays $88 and medicare pays $112. Under the Nixon proposals the patient would pay $113.75 and medicare $86.25.

The situation with respect to hospital services is much the same. At present, seniors pay, on the average, $72 toward the first day's cost of hospitalization. Thereafter they pay nothing until after the 61st day of hospitalization. At that point they pay $13 a day for the next 30 days and $26 a day for the next 60.

Under the Nixon proposals, our seniors will pay the full costs for the first day of hospitalization. This will be substantially higher than $72 paid at present. In addition, seniors will be required to pay 10 percent of all costs after that.

The effect of these proposals will be devastating if they are allowed to be put into operation. All of us in the Congress will be flooded with letters asking why we have allowed medicare to become a broken promise. We have trouble enough explaining why medicare now covers only 42 percent of the health costs of the elderly. If the Nixon proposals are implemented, medicare's share of the costs will drop to an even smaller percentage.

It almost appears as though someone in the Office of Management and Budget took note of the 20-percent social security increase and suggested that older Americans were in a better position to help offset the costs of their own health care. But I do wonder how much longer older Americans will tolerate having the Federal Government give benefits with one hand and take them away with the other. I am just a little afraid that future historians will characterize our society as one which creates rising expectations among our elderly around election time and renders deep disappointment immediately thereafter. The rhetoric speaks of care and concern but the reality is poor care or just plain neglect.

I wonder how much longer we can maintain this kind of hypocrisy? The senior members of society are worthy of our highest respect. It is time we translated this respect into concrete acts.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Indiana (Mr. HARTKE) is recognized for not to exceed 10 minutes.

MEDICARE

Mr. HARTKE. Mr. President, I want to address myself to the question of medicare, too.

Mr. President, the Nixon administration's proposal to slash funds for our medicare program is an unconscionable affront to the American people. It is an overt move which, if not by design, then by coincidence, will undermine the health and well-being of the Nation's senior citizens—our parents and grandparents.

Any reduction in medicare coverage is unthinkable, but the extent of the recommended cut is an insult to our social values. Granting administration requests would eliminate $516 million from the projected costs of medicare by increasing out-of-pocket payments for 23 million of America's aged and disabled citizens.

At a time when the Nation's conscience cannot rest with today's incredibly high hospital costs affecting Americans of all ages and economic strata, we are asked by President Nixon to accept a proposal which would add $345 million in the first 6 months of 1974 alone to hospital costs paid by those least able to pay—our elderly. Approximately 5 million medicare beneficiaries would have to bear this inhumane expense in the next fiscal year. Many of them would not be able to do so.

At present, medicare patients pay $72 and nothing more for the first 60 days of hospitalization. The Nixon administration would force patients to pay room and board charges for the first day—a charge which easily can exceed $100—plus 10 percent of all room and board charges for the remainder of hospitalization. It takes little calculation to imagine the extraordinary burden on aged Americans with long-term illnesses. This terribly inhumane situation is precisely the one which prompted me to work with my colleagues in Congress to create the medicare program in 1965.

In addition, the administration wishes to raise the deductible for doctor bills from $60 to $85, as well as increase coinsurance for the patients from 20 to 25 percent. These increases will affect nearly 11.6 million aged Americans requiring reimbursable physician's services during fiscal 1974.

There can be no justification, economic or otherwise, for the deliberate, wholesale neglect of the elderly and disabled. To make them pay for cost overruns and the comfort of corporate executives would bring us to the nadir of national disgrace. Congress must remain firm in its commitment to the health care of our elderly. We cannot allow President Nixon to undo what is perhaps some of the most enlightened legislation of our time.

Mr. President, I believe that all Americans are entitled as a matter of right to access to good quality health care. That is why I introduced the Hartke Health Care Act of 1973 (S. 444), and that is why I have proposed partial general revenue financing for medicare benefits. It is only when we accept the fact that every American—regardless of his age or his income or his place of residence—should be able to get good doctor and hospital care that we will achieve the type of just society to which this Nation should aspire.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may now be recognized under my order.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may require to the distinguished senior Senator from Utah (Mr. BENNETT).

COMMUNITY ACTION PROGRAMS

Mr. BENNETT. Mr. President, I have just been made aware of a shocking example of why the Office of Economic Opportunity is exercising sound judgment in denying any further Federal money to the scandalous Community Action programs.

A printed flier now being distributed in Salt Lake City contains outrageous and false statements about President Nixon's budget for the poor and includes offensive drawings of the President. People receiving this smear sheet are asked to complain to their Utah Congressmen. They are also asked to call Representatives—and our names are listed—two telephone numbers—328–1400 and 363–4593—for further information.

The telephone numbers are those of the CAP office itself. When these numbers are called, those answering will admit that the flier is one part of an anti-Nixon campaign being waged by the Community Action Program for Economic Opportunity, Salt Lake area, located at 2033 South State Street, Salt Lake City.

In the first place, the real authors and sponsors of this piece of partisan trash do not have the courage to list themselves or their organization on the flier. They hide behind the blind telephone listings, a practice forbidden by the Corrupt Practices Act for political literature.

The propaganda handout also encourages direct pressure on the legislative system, when lobbying activity is specifically forbidden by OEO laws and regulations.

If appropriated funds were used to finance publication of this material, the publishers may be in violation of Federal laws forbidding the use of Federal moneys to influence legislation or appropriations by Congress. Title 18, United States Code, section 1913 states in part:

No part of the money appropriated by an enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress to favor or oppose by vote or other-

wise, any legislation or appropriation by Congress.

The smear sheet lies when it alleges that President Nixon's new budget proposes "elimination or severe cutbacks of all programs providing services to those most in need, the poor, lower income and elderly persons."

In fact, the President is proposing to spend a record $125 billion on human resources, including the poor, lower income and elderly persons. This is a $19 billion increase over the current year.

The President is proposing that CAP's such as the one in Salt Lake City be abolished, a move that will not harm the poor and which will be applauded and supported by an overwhelming majority of Americans.

I am demanding that OEO renounce this pamphlet, and I have today sent a telegram to Mr. Howard Phillips, Director of OEO, asking his office to investigate whether Federal funds were used to finance the printing and distribution of this material, and whether those in charge should be subjected to legal action for criminal misuse of Federal appropriations.

I have also today sent copies of this flier to other Members of the Utah congressional delegation. I call on them to join me in denouncing this partisan attack on the President of the United States, and the clearly inappropriate use of the Salt Lake City CAP office facilities and personnel for this activity.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 11 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may need, to the distinguished assistant Republican leader.

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

THE PRESIDENT'S PROGRAMS FOR OLDER AMERICANS

Mr. GRIFFIN. Mr. President, today we have been witnessing and listening to a political exercise, with a succession of speakers from the majority party condemning and criticizing President Nixon in connection with his efforts to help older Americans.

Mr. President, on a day next week there may be a more complete response to some of the political oratory that has been so much in evidence here on the floor today. But, for the time being, let me focus the attention of the Senate upon the message which has come to the Congress today from the President of the United States.

Reading from that section of the message which relates directly to older Americans, I quote:

One measure of the Nation's devotion to our older citizens is the fact that programs benefitting them—including Social Security and a wide range of other activities—now account for nearly one-fourth of the entire Federal budget.

Social Security benefits levels have been increased 51 percent in the last four years—the most rapid increase in history. Under new legislation which I initially proposed, benefits have also become inflation-proof, increasing automatically as the cost of living increases.

Over 1½ million older Americans or their dependents can now receive higher Social Security benefits while continuing to work. Nearly 4 million widows and widowers are also starting to receive larger benefits—$1 billion in additional income in the next fiscal year. And millions of older Americans will be helped by the new Supplemental Security Income program which establishes a Federal income floor for the aging, blind, and disabled poor.

Nevertheless, we are confronted with a major item of unfinished business. Approximately two-thirds of the twenty million persons who are 65 and over own their own homes. A disproportionate amount of their fixed income must now be used for property taxes. *I will submit to the Congress recommendations for alleviating the often crushing burdens which property taxes place upon many older Americans.*

Mr. President, even those few paragraphs, it seems to me, places in much better perspective the speeches to which we have been listening.

Mr. President, I ask that the remainder of that section of the President's message on older Americans, as well as the section on health, be printed in the RECORD.

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

I also ask the cooperation of the Congress in passing my 1974 budget request for $200 million to fund the programs of the Administration of Aging—a funding level more than four times that appropriated for AoA programs in fiscal year 1972. Half of this amount will be devoted to nutrition projects for the elderly, with the remainder going to assist States and localities in developing comprehensive service programs for older Americans.

In 1973, we shall continue to carry out the commitment I made in 1971 at the White House Conference on Aging: to help make the last days of our older Americans their best days.

HEALTH

I am committed to removing financial barriers that would limit access to quality medical care for all American families. To that end, we have nearly doubled Federal outlays for health since the beginning of this Administration. Next year, they will exceed $30 billion.

Nearly 60 percent of these funds will go to finance health care for older Americans, the disabled, and the poor, through Medicare and Medicaid.

But we have taken significant steps to meet other priority needs as well. In the last four years, funding for cancer and heart and lung disease research has more than doubled; it will amount to more than three-quarters of a billion dollars in 1974.

We have supported reform of the health care delivery system and have proposed legislation to assist in the development of health maintenance organizations on a demonstration basis. We have increased funds for programs which help prevent illness, such as those which help carry out our pure food and drug laws and those which promote consumer safety.

We have declared total war on the epidemic problem of drug abuse—and we are winning that war. We have come a long way toward our goal of creating sufficient treatment services so that any addict desiring treatment can obtain it. We are also making substantial investments in research to develop innovative treatment approaches to drug abuse. I will report in greater detail on our anti-drug effort in a later section of this year's State of the Union message.

Strong measures have been taken to ensure that health care costs do not contribute to inflation and price people out of the care they need. The rate of increase in physicians' fees was cut by two-thirds last year alone, and hospital price rises have also been slowed. To build on these gains, controls on the health services industry have been retained and will be strengthened under Phase III of the Economic Stabilization Program.

A major goal of this Administration has been to develop an insurance system which can guarantee adequate financing of health care for every American family. The 92nd Congress failed to act upon my 1971 proposal to accomplish this goal, and now the need for legislation has grown still more pressing. *I shall once again submit to the Congress legislation to help meet the Nation's health insurance needs.*

Federal health policy should seek to safeguard this country's pluralistic health care system and to build on its strengths, minimizing reliance on Government-run arrangements. We must recognize appropriate limits to the Federal role, and we must see that every health care dollar is spent as effectively as possible.

This means discontinuing federally funded health programs which have served their purpose, or which have proved ineffective, or which involve functions more suitably performed by State and local government or the private sector.

The Hill-Burton hospital grants program, for example, can no longer be justified on the basis of the shortage of hospital facilities which prompted its creation in 1946.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes remaining.

Mr. ROBERT C. BYRD. I thank the Chair. I yield 3 minutes to the distinguished Senator from Connecticut.

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

MEDICARE CUTBACKS

Mr. RIBICOFF. Mr. President, I would like to join in the discussion concerning medicare cutbacks. I wish to add at this time for the RECORD that the gain that social security beneficiaries have received over the past 3 years have been accomplished under congressional initiative. The members of the Committee on Finance, Members of this body, have been in the forefront to assure that this Nation's senior citizens receive an adequate retirement income.

I was shocked to see that the fiscal year 1974 budget included a proposal to increase the cost burden on America's 20 million medicare recipients. The effect of such a proposal would be to force medicare patients to pay more than twice as much as they now pay for the average hospital stay. The cost to the elderly from their own savings for an average hospital stay—13 days—would increase from $72 to about $200.

This proposal would add close to $700 million a year to the medical and hospital bills of the Nation's 23 million

elderly. Such a change will work a hardship on our elderly. I am opposed to it and will fight it in the Senate Finance Committee and on the floor.

Everyone wants Government to operate efficiently and save money. The President is to be commended for his efforts to cut back Federal spending in areas of waste and duplication. Those Government programs which are not successful should be ended. In this pursuit the President has my support and the support of most Americans. But budget cuts that hurt the health and well-being of older Americans who rely on medicare should be rejected.

Older Americans are least able to afford the health care that they frequently need. Older people live on fixed incomes in an inflationary economy. This is no time to add a new burden to our elderly. Clearly, there are other areas of Government where money can be saved. We can make deeper cuts in the farm subsidy program, for example.

We should be doing more to help the millions of Americans who have lived full and productive lives and who have a right to live out their retirement years in comfort and dignity.

The proposed changes would mean that for the first time medicare patients would have to pay part of their bill from their second day in the hospital to their 60th day.

The administration is also proposing that medicare patients pay more for supplemental insurance for doctor's bills.

Under the present law, patients covered by medicare pay $72 for the first day in the hospital. From then until the 61st day, all care is free. From the 61st to the 90th day, when benefits end, a patient pays $18 a day.

The administration is proposing that the medicare patient pay the actual hospital room and board charges for the first day. After that, the patient would pay 10 percent of the actual hospital charges every day.

Last year the President supported a similar provision in H.R. 1 to impose a copayment on medicare beneficiaries from the 31st to the 60th day. This provision was unanimously opposed by the Finance Committee. I am confident that our committee will again block the President's attempt to impose an even bigger burden on the senior citizens of America, and that the Senate of the United States will support such a move.

Much more remains to be done to improve the social security system. Living on social security is not easy. Nor is medicare a foolproof system for insuring that our elderly receive the health care they need and deserve. There is plenty of room for improvement in how this Nation treats its older citizens.

One goal of mine, which I have been fighting for since I was first elected to the Senate in 1962, is to repeal the earnings limitation for all social security beneficiaries.

The present law limits to $2,100 the amount of money social security beneficiaries under 72 years of age can earn. For every $2 earned above $2,100 the beneficiary loses $1 of social security benefits. There is no limitation on earnings for beneficiaries 72 or older.

As a member of the Senate Finance Committee, which writes social security legislation, I have consistently fought the concept of an earnings limitation. I have worked to increase the limitation to its present more satisfactory level, a level which is better than it has been in the past, but which is still unsatisfactory for working families. Until January 1 of this year, for example, the limitation was $1,680.

The trouble with the present law is that it allows social security recipients to receive unlimited income from investments with no penalty while men and women who wish to work—and have no investments to rely on—are virtually forced to quit their jobs or work part-time.

Social security should not be a contract to quit work. Those penalized by the earnings limitation often have the greatest need for more income than their social security benefits provide them. I believe that social security is one of the finest domestic programs the Federal Government administers. But the system is not perfect and parts of it—the income limitation, for instance—are wrong. Here we take able-bodied men and women who want to work, who are good at their work, and would feel lost without their jobs and we put pressure on them not to work and then we penalize them if they continue to work. This injustice must be corrected. It should have been corrected years ago. I hope the Congress will approve my bill to eliminate the social security earnings limitation.

Another effort to make life more comfortable for the elderly is embodied in legislation I am cosponsoring (S. 174) to extend medicare coverage to prescription drugs. Benefits would be made available for drugs purchased outside the hospital for numerous chronic diseases including diabetes, arthritis, various hearing disorders, and cancer. Coverage under medicare is presently limited to drugs used during hospitalization.

While drug costs consume a large portion of the average older person's medical bill, the problem is especially critical for those suffering from chronic illnesses. Patients who suffer such afflictions as heart and respiratory disease often are torn between bankruptcy and survival. The chronic illness patient has average prescription drug expenditures nearly three times as high as those without such illnesses.

This legislation was approved last year as an amendment to H.R. 1 by the Finance Committee despite the opposition of the Nixon administration. Unfortunately, it was deleted in conference.

I am hopeful that this crucial medicare drug legislation can be enacted into law this year.

Economy in Government is a worthwhile goal. But it must not be achieved at the expense of vital human needs.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against the time under the remaining orders preceding the order for Mr. MUSKIE.

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

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.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) may now be recognized for not to exceed 10 minutes, the time to be charged against the reserved time of Senators under previous orders.

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

Mr. ROBERT C. BYRD. But without prejudice to the order for the recognition of Mr. MUSKIE or the order for the recognition of Mr. CHURCH.

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

Mr. THURMOND. Mr. President, I wish to thank the distinguished Senator from West Virginia for his courtesy.

(NOTE.—The remarks Senator THURMOND made at this point when he introduced S. 1061, amending the Consolidated Farm and Rural Development Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time the Senator from Maine is recognized for not to exceed 10 minutes.

MEDICARE CUTBACKS

Mr. MUSKIE. Mr. President, the Senate has the privilege today of hearing from 12 of our distinguished committee chairmen on a single critical topic—the administration's proposals to cut back the medicare program. These proposals would reduce medicare coverage drastically, requiring the elderly covered by medicare to pay out of their own pockets an additional $500 million for medical costs now covered by medicare.

Medicare coverage for hospital costs, for instance, would be reduced by making the patient pay 10 percent of all daily hospital charges for the first 90 days, after paying for the first day's room and board; while under current law, the patient pays nothing for hospital care for the first 60 days after paying an initial $72 deductible. This change alone would each year cost a single hospitalized medicare patient, on the average, an extra $138.

As for the cost of physicians services, the administration would reduce medicare coverage from 80 to 75 percent of the "reasonable charges," and would increase the initial deductible charged to the patient from $60 to $85. This proposal would increase the patient's share of a $350 doctor bill, for instance, by 28 percent, from $148 to $198.

Rising costs by themselves are reduc-

ing medicare coverage well below the 50 percent of the elderly's health bills the program originally covered. These proposals would compound the burden of rising costs lowering effective medicare coverage to only about 40 percent of the health costs for older Americans.

It is a privilege for me to join with my colleagues in their unified expression of concern about the administration's proposals on medicare. In the years since this administration has controlled the executive branch, the Congress, under the weighty influence of these distinguished committee chairmen, has repeatedly cut this administration's budget requests when necessary. Today's response, therefore, cannot in any way be termed one of irresponsible spenders. Rather, it is the reasoned response of responsible, experienced, and economically minded legislators to an irresponsible administration proposal.

The President has couched his campaign to cut the budget in terms of increasing the self-reliance of the American people. Certainly self-reliance is a worthwhile goal and it is a quality that identifies with the people of my region. But does President Nixon expect to increase the self-reliance of the elderly by reducing the amount of aid they get for health care?

I recently attended hearings of the Special Committee on Aging, whose distinguished chairman will soon address us on the floor. At those hearings I asked the president of the National Council of Senior Citizens whether an increased exertion of self-reliance on the part of the elderly could help their plight. His response was this:

> The generation I represent has had about 70 years of self-reliance.

He saw nothing wrong with relying for once on the effort of all Americans to aid the elderly to get medical care which many of them cannot afford, notwithstanding 70 years of self-reliance.

I am curious whether indeed the administration hopes to carry the theme of self-reliance so far that it would place on the aged poor, in need of health care, the burden of increased "self-reliance" on their own scarce resources. This is one of the questions I hope to explore next week when the Subcommittee on the Health of the Elderly of the Special Committee on Aging holds its opening round of hearings on the barriers to health care for older Americans. As chairman of this subcommittee, I am looking forward to exploring many questions about the health needs of the elderly, such as rising health costs, the alternatives to institutionalization, and the fragmentation of health delivery. The first order of business for my subcommittee, will be to focus on the proposed medicare cutbacks. For this purpose, the subcommittee will be privileged to have as its leadoff witness next Monday Mr. Caspar Weinberger, Secretary of Health, Education, and Welfare. Perhaps those hearings will give us more details on the administration's proposals, and their impact on the elderly.

In the meantime, I hope that today's demonstration of concern about the administration's medicare proposals will serve as a warning to the administration that this Congress, acting in its most responsible fashion, does not intend to turn its back on the health needs of the elderly.

Mr. President, I am delighted to see on the floor the distinguished chairman of the Special Committee on Aging, the Senator from Idaho (Mr. CHURCH), who, I am sure, will make a significant contribution to this dialog.

Mr. CHURCH. Mr. President, I congratulate the able senior Senator from Maine for his excellent statement and for the hearings we propose to conduct into the whole question of barriers to the health care of the elderly.

I know that centermost in his consideration of this broad question will be the President's proposal to add many hundreds of millions of dollars to the cost of the elderly and the ill for the benefits that they now derive under the medicare program, and to continuing this care, I want to turn my remarks this morning. Before doing so, however, I commend the Senator for the initiative he has shown. And I think his hearings will demonstrate that this proposal simply lacked the backing of the American people.

I think that without any question here is a place where Congress must draw the line. We should be looking for ways and means to improve the medicare program. Certainly we ought not to retreat from the ground we have already won.

So I compliment the Senator from Maine on his initiative.

Mr. MUSKIE. I thank the distinguished Senator from Idaho.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho is recognized for not to exceed 10 minutes.

PRESIDENT NIXON'S MEDICARE CUTBACKS: A PROPOSAL WITHOUT SUPPORT AND WITHOUT HUMANITY

Mr. CHURCH. Mr. President, the President of the United States likes to claim that although many of the people's elected representatives here in the Congress may oppose his policies, he somehow "knows best" and that the Nation supports him.

I, for one, have never been convinced of this alleged public backing for what are, in many cases, unilateral Presidential actions, unenlightened by public discussion or congressional consultation.

We now have evidence that in one current and shocking proposal by the President—to cripple the medicare program—Mr. Nixon faces massive public opposition. A recent poll conducted by Louis Harris revealed that a staggering 92 percent of those surveyed are against the Nixon recommendations to "make older people pay more than they now pay for medicare." These proposals are contained in the President's budget for fiscal 1974. Only 5 percent supported the President in this matter, according to the Harris poll.

But I do not rely only on this poll for evidence of overwhelming opposition to the President's medicare cutbacks. The mail that is reaching me from Idaho—and, indeed, from throughout the Nation—has yet to include a single sentence in favor of what the President is suggesting when it comes to increasing costs for medicare participants.

So, I ask, where is the public support for this policy?

And I ask a second question: What has happened to the administration's sense of humanity, decency, and concern for those who are in need? In my view, the President's proposed medicare cost increases—to be strapped on the backs of the elderly—are punitive and must be rejected. The American people know this, too, and no doubt this is why they oppose what Mr. Nixon wants to do to 23 million aged and disabled medicare beneficiaries.

A hard look at what the Nixon budget proposals would do to senior citizens on medicare makes clear the harsh consequences of the policy that the President is urging.

President Nixon's budget proposals for fiscal 1974 would cut $516 million from the estimated cost of medicare by increasing out-of-pocket payments for program participants. The President's recommendations include adding $345 million to the hospital costs of medicare patients during the first 6 months of 1974. The elderly now pay $72 initially and nothing thereafter for their first 60 days in the hospital. Under the Nixon plan, medicare patients would pay for the actual hospital room and board charges for their first day of hospitalization plus 10 percent of all subsequent hospital room and board costs. During the next fiscal year, approximately 5 million medicare beneficiaries are expected to be hospitalized.

The President is not content to stop there. His budget for fiscal 1974 also proposes to raise the deductible for physicians' bills under part B of medicare from $60 to $85 and to increase the patient's coinsurance costs from 20 to 25 percent of the balance. Let us look at what this would mean in human terms. A $600 doctor charge now costs a medicare beneficiary $168. But the patient's portion of these costs would go to $213.75 if Mr. Nixon has his way. And almost 11.6 million medicare beneficiaries are expected to require reimbursable doctor and other qualifying services during fiscal 1974.

President Nixon is proposing a policy without public support and without compassion for the elderly ill. And he is twisting national priorities out of shape in the process. Larry Evans, president of the Boise Club of the National Council of Senior Citizens, in an article in the Idaho Statesman of February 11, 1973, asked this question:

> If we can afford to increase the budget by billions for defense, billions for a space program, when both the war and the moon visits are no more, is it not reasonable to ask for an increase in social benefits instead of asking for cuts?

Mr. Evan's question is right on target. The war in Vietnam is supposed to be over but the request for the military budget calls for an increase of $5 billion. And I ask why the administration proposes to spend $3 billion on space when

we have no plans to send another man to the moon?

Certainly we need tighter controls on Government spending. But dismantling the medicare program is not the way to approach the problem. As I said on the Senate floor after the President's medicare cutbacks were announced:

This is an attempt to put the burden of budget-cutting on the backs of the old and the sick, and it should be opposed by Congress and the general public.

Now is the time to mobilize the Congress and the Nation against these insensitive proposals to tear asunder the medicare program. As chairman of the Senate's Special Committee on Aging, I join with my colleagues here today in this vital fight on behalf of the Nation's elderly. Let our senior citizens know that although the White House door may be closed to them, they can count on the continuing support of large numbers of us here in the Senate to wage the battle for the programs—including medicare and many others—that they need and deserve.

Mr. McGEE. Mr. President, I wish to join with many other Senators today and add my voice to theirs to deplore the plans of the administration in the field of medicare financing.

The proposals to add to the financial burden of our senior citizens as they face increasing probability of hospitalization simply boggle the imagination. What kind of logic is it that puts a heavier cost burden on the very persons the medicare program is designed to assist?

About the only thing worse than the proposal of the administration is its timing. Nearly every day we learn that the cost of living has jumped again; one week it is rent raises; the next it is food prices, or clothing, or utilities, or gasoline. Yet most of our senior citizens live on fixed incomes, with no prospect of any raises or cost-of-living adjustments as enjoyed by many of the workers in our society.

How, in the name of heaven, are these people expected to meet those increases?

Now these people are being told by the President that their medicare costs are to be increased, on top of everything else.

Mr. President, it is the duty of a government to be fiscally sound and prudent. But it is also the duty of a government to be humane and compassionate.

I commend the distinguished chairman of the Committee on Labor and Public Welfare (Mr. WILLIAMS) for bringing this issue to the floor of the Senate today, and I wish to associate myself completely with his remarks.

Mr. BENTSEN. Mr. President, I am pleased to join my colleagues today in this dialog concerning the administration's proposals on medicare and medicaid.

I want to register my own concern about the President's budget proposals in these fields.

When Lyndon Johnson signed the medicare program into law in 1965, he envisioned it as a means of providing health security for the millions of older Americans who would be affected. Unfortunately, the passage of time has eroded some of the original goals he espoused and fought for.

I have been distressed to learn, Mr. President, that many people 65 or over are laying out almost as much cash for out-of-pocket expenditures as in 1966. In fact, these expenses averaged about $225 in 1971, as compared with $234 in 1966 before the advent of medicare.

The reason many older Americans are little better off today than they were in 1966 is the remarkable escalation in medical costs. Doctors fees have risen over 34 percent since 1967, and the frequent disparity between what doctors charge and what medicare pays for creates the increased burden of expense on the elderly patient.

In addition, under medicare, the Social Security Administration considers a charge "reasonable" only if it is no higher than the doctor has been customarily charging all his patients, whether covered by medicare or not. The charge must also be no higher than charges made for that service in three out of every four cases by other doctors in that locality.

The problem is that the standards for rates sometimes lag as much as 18 months behind the times. Sidney Margolius, an expert on medicare, notes that as recently as June 30, 1972, insurance companies were still using 1970 rates. On July 1, 1972, the "reasonable" rates went up—but only to the 1971 level.

The fact is that the elderly need health care more often. In fiscal 1969, for example, personal health care expenditures by all Americans reached an astronomical figure of $52.6 billion. Approximately one-fourth of these outlays were spent for the care of persons aged 65 or over, even though the elderly make up only one-tenth of the population.

Today, medicare still only defrays about 45 percent of the medical expenses of older persons. Moreover, even where private insurance is purchased to supplement medicare, long-term illness can seriously upset the economic security of those forced to live on fixed and reduced incomes.

Mr. President, since the medicare program was enacted the Government has been systematically increasing its costs to the older American. Since 1966, the premium for part B has increased from $3 to a level twice that high. Last year, Congress increased the part B deductible from $50 to $60. In 1966, the part A deductible was $40; today it is 75 percent higher. And still another increase in cost was placed on the shoulders of the elderly who became ill at the start of 1972. Medicare beneficiaries with hospital stays of over 60 days began paying $17 a day for the 61st through the 90th day, up from the prior cost of $15 daily.

Considered in the context of these added burdens, the administration's proposals seem particularly untimely.

The administration would have the patient in need of hosiptalization pay the full cost of his first day and 10 percent of all costs after that. The medicare deductible would rise from $60 to $85, and after that the patient's share of the balance would rise from 20 to 25 percent.

Aside from cutting costs, the rationale seems to be that this will decrease the incidence of hospitalization. Mr. President, I seriously doubt that this will be the case.

Former Social Security Commissioner, Robert Ball, one of the fathers of this program, noted that if low patient costs were a "major thing" in promoting hospital bed utilization, there would be a higher incidence of hospitalization for those participating in the Kaiser plan, the California-based health maintenance organization which provides for virtually free hospital and medical care.

However, the incidence of hospitalization is lower in the Kaiser plan than for the public generally.

No, Mr. President, it is a mistake to attack our mounting health costs by placing greater burdens on the elderly to pay. Such strategies can only be counterproductive in the long run.

Mr. President, the White House Conference on Aging called for a comprehensive integrated plan for health coverage available to all Americans. Several proposals for such a plan are now before the Congress and will be discussed before the Finance Committee, of which I am a member.

While we discuss those proposals, it makes little sense to this Senator to increase costs or cut back on coverage for America's elderly—and I would add my voice to the others raised this morning in opposition to the administration proposals.

Mr. EASTLAND. Mr. President, I have served in this body for more than three decades.

I was a conservative when I first appeared on this floor. I have been a conservative through 30 years—in both Democratic and Republican administrations. I am a conservative this morning—and I will remain dedicated to that philosophy as long as I live.

I have always favored strict economy in Government—and I always will. I have always opposed any waste of tax dollars—and I always will.

I am—however—a firm believer in the proper utilization of Federal funds to provide needed services for our people—especially to those people who have earned the services they receive.

I can think of no more deserving segment of our population than the senior citizens of this country.

I will—therefore—oppose with every resource I can muster—the administration's recommendations to cut back medicare assistance to older Americans.

East and West—North and South—our men and women who are in the evening of their lives have already given their days to building and protecting the United States.

They symbolize, for me, the kind of people who shaped this land from a wilderness. It was they—and their predecessors—who labored all their lives to make ours the most powerful and affluent society in the history of mankind.

It is not right—nor fair—nor in the spirit of their country—to have their last years with us filled with anxiety—and even want.

The administration proposes to reduce the cost of medicare by increasing payments made by medicare patients.

The recommendation that the elderly pay actual room and board charges for

their first day in a hospital—plus 10 percent of those charges thereafter—will add $345 million to the already heavy burden carried by older Americans in the first half of 1974 alone.

Another provision seeks to raise the deductible figure for doctor bills from $60 to $85. It would also increase a patient's coinsurance cost from 20 to 25 percent of the additional bill. The bill imposed on our senior citizens would be more than half a billion dollars in the first 6 months of fiscal 1974.

These recommendations can, and will, in my judgment, result in the denial of hospital care to millions of men and women who must have—and who deserve—that care.

In 1963 President Kennedy said:

> It is not enough for a great nation merely to have added new years to life—our objective must also be to add new life to those years.

I agree with that statement—and I would add that the last thing a nation like ours should do would be to contribute, in any way, to depriving the elderly of security and dignity in the autumn of their years.

I intend to work in Congress—and I will work with the administration—to control Federal spending and to insure the wise expenditure of tax dollars.

However, Mr. President, penalizing our senior citizens is a completely wrong approach to the savings we must achieve.

America owes her elderly men and women the security and the services they have earned.

Millions of our older people must not be required to produce funds which, in many cases, they do not have and cannot obtain.

I sincerely hope the administration will reconsider its recommendations on the medicare program.

Mr. ROBERT C. BYRD. Mr. President, in his initial health message, the President stated that the Nation faced a growing health crisis and pledged his administration to the task of developing a comprehensive health strategy to meet the health needs of the 1970's. Now, almost 4 years later, the administration is about to take its first concrete action to resolve the crisis.

The Department of Health, Education, and Welfare recently announced that the administration will propose legislation to modify the cost-sharing provisions included in both part A and part B of the medicare law. Unfortunately for the Nation's elderly, the effects of the administration's proposal will be simple and direct. Today, under the hospital insurance program, a medicare beneficiary who enters a hospital is responsible for an initial deductible amount of $72; he then pays nothing for hospital services until his 61st day, when he must pay a daily amount equal to one-fourth of the initial deductible. Should his hospital stay extend over 90 days he must pay a daily amount equal to one-half the initial deductible. There is no doubt that these copayment requirements constitute a substantial financial burden to many medicare beneficiaries. The President's proposal, however, would increase that burden by requiring that in addition to an initial deductible equal to 1 day's hospital charges, the beneficiary would pay daily amounts equal to 10 percent of the charges he incurs for each remaining day spent in the hospital.

The administration contends that its proposal eliminates high cost sharing at the end of a long hospital stay. The truth is that, while the proposal might be of some benefit to the small number of medicare beneficiaries who are hospitalized for prolonged periods, the majority of beneficiaries would be faced with substantially larger out-of-pocket expenses for hospital care than they now incur. Statistics compiled by the Social Security Administration show that the majority of beneficiaries are not in the hospital for 60 or 90 days or anywhere near that long: the number of covered days of care per inpatient hospital claim under medicare during the first month of 1973 averaged 11.3 days.

The administration's other contention—that the modifications in the hospital insurance provisions would serve as a check on the utilization of services by making beneficiaries more conscious of the cost of hospital care—is equally unacceptable. In the absence of financial barriers to hospital care, the patient has little or no say with respect to whether he is admitted to a hospital, how long he will stay there, or what services he will receive. These decisions are all made by his physician, presumably for sound medical reasons.

The President is also recommending that the deductible under the supplementary medical insurance program be increased from $60 to $85 and that the coinsurance requirement be raised from 20 to 25 percent. The medicare beneficiary's cost sharing responsibilities under the supplementary medical insurance program already constitutes a staggering burden: premium payments which have risen almost yearly, a deductible which was just raised by the Congress from $50 to $60 last year, partly at the President's request; and a coinsurance payment that often exceeds 20 percent of his physician's bill.

Mr. President, I am deeply concerned that the administration's proposal will reconstruct financial barriers to quality health care for the aged that the medicare program was created to level. I am even more concerned that the proposal is only part of a discernible pattern of actions which will erode the Nation's commitment to meet the needs of the elderly, the poor, and the disadvantaged.

Mr. HOLLINGS. Mr. President, I rise to oppose the proposed legislation increasing cost sharing in both the hospital insurance and supplemental medical insurance components of medicare. Such a precipitous change would impose intolerable financial hardships on those with the greatest need and fewest resources—that is, the old, the sick, and the poor.

There are presently 23.1 million persons in the country who are eligible for medicare benefits. Of these, 5.5 million, or 23 percent, live below the Federal poverty level. Are we to ask these elderly people, who are living on fixed incomes, to absorb the spiraling costs of health care? This is what the administration's proposal is asking our senior citizens to do.

The severity of this proposal is most evident in the area of hospital insurance. Under the existing system a beneficiary must pay a deductible amounting to the national average cost of 1 day's stay in a hospital, $84. For the first 60 days he pays nothing further for room and board. Now, if an individual is hospitalized for 12 days, which is the national average, it will cost them $84. The administration's proposal would increase the cost to $186 by charging a deductible amounting to 1 day's actual room and board charges plus 10 percent of each daily charge thereafter. If an elderly patient was so ill that the hospitalization extended to 60 days he would be liable for $699 for room and board under the administration's proposed changes instead of the present $84. This is an astounding 732 percent increase.

The new proposal increases supplemental medical insurance in addition to hospital insurance. In other words, the medicare patient will have to pay higher doctor bills as well as increased hospital fees. Specifically, the physician's fee would be raised from a $60 deductible plus 20 percent of the remaining charges, to $85 plus 25 percent for any balance due.

I strongly support controlling the ever expanding Federal programs that bloat the budget. But we must be wise as well as frugal and make cuts in programs that are truly extravagant. Just as we do not wish to spend money indiscriminately, so we must not withhold money indiscriminately.

America's oldest generation has contributed and sacrificed so much to and for their country. Let us not add to the sacrifices they must make but let us do what we reasonably can to mitigate their health problems so they may continue to contribute positively to their country.

SENATOR RANDOLPH OPPOSES REDUCTION IN MEDICARE FINANCING

Mr. RANDOLPH. Mr. President, Members are keenly aware that America is facing a health care crisis of major proportions. As unhappy as this situation is for the average citizen, it is a tragedy for the poor and the elderly, for they are the ones who can least afford the burden of skyrocketing medical costs.

Thus, I am concerned over the proposed medicare cutbacks in the fiscal year 1974 budget which the administration sent to the Congress in January. The budget proposals to increase the costs of medicare are clearly an effort to place the burden of expenditure reduction on the elderly and the sick. First, there are the proposals under part B to raise the deductible for doctors' bills from $60 to $85 and to increase the patient's coinsurance costs from 20 to 25 percent of the balance. Most distressing, however, is the change which could add millions to the hospital costs for medicare patients.

Our elderly citizens now pay $72 with no further costs for their first 60 days in a hospital. The administration's proposal would force these older Americans to pay the hospital room and board costs for the first day, plus 10 percent of all subsequent hospital room and board

charges. The average cost per day for a hospital room is now $105.

These increases will bring financial disaster for many medicare recipients, most of whom live on a limited income. They tend to be sicker and need more hospitalization than those under 65. At a time when the administration is advocating increased expenditures in foreign aid and defense, they seem to be asking our senior citizens to pay an additional $345 million for hospital costs for the first 6 months of 1974, plus an enlarged share of doctors' bills.

Mr. President, I believe that a nation may be judged best by how it treats its weak, its handicapped, its sick, and its elderly. As a member of the Senate Special Committee on the Aging, I strongly oppose these slashes in health care for medicare recipients. We need to check Federal spending, but we must not do it at the expense of those who can least afford it. America must afford decent, adequate health care for its senior citizens.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all remaining time reserved under the orders be vacated.

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

MESSAGE FROM THE PRESIDENT

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

INFORMATION OF THE STATE OF THE UNION—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

"Information of the State of the Union," which our Constitution directs shall be communicated from time to time to the Congress by the President, must consist above all of information about the well-being of the American people.

As the opening words of the Constitution proclaim, America began with "We the People." The people *are* the Union, and its condition depends wholly on theirs.

While the Nation's land and resources, its communities, its economy, and its political institutions are also vital concerns to be addressed in my reports to the Congress this year, all of these in the final analysis are no more than means to a greater end. For each of them must ultimately be measured according to a single standard: what will serve the millions of individual Americans for whom all public officials serve as trustees.

Too often in the past that standard has not prevailed. Too often public policy decisions have been founded not on the long-run interests of all the people, but on the short-run interests of special groups of people. Programs once set in motion tend to stay in motion—sometimes long after their useful life has ended. They acquire a constituency of their own, even within the Government, and they cannot easily be reformed or stopped. Means come to be regarded as ends in themselves. And no one suffers more than the people they were designed to serve.

Despite all of the factors which conspire to hinder both the executive and the legislative branches in being as objective and analytical as we should be about the soundness of activities that continue from year to year supposedly in the public interest, we can and must discipline ourselves to take a larger view.

As we consider the subject of human resources in this fourth section of my 1973 State of the Union Message, we must not confine ourselves solely to a discussion of the year past and the year ahead. Nor can we be content to frame the choices we face in strictly governmental and programmatic terms—as though Federal money and programs were the only variables that mattered in meeting human needs.

FULFILLING THE AMERICAN DREAM

I am irrevocably committed, as Presidents before me have been and as I know each Member of the Congress is, to fulfilling the American dream for all Americans.

But I also believe deeply that in seeking progress and reform we must neither underestimate our society's present greatness, nor mistake the sources of that greatness. To do so would be to run a serious risk of damaging, with unproven panaceas applied in excessive haste and zeal, the very institutions we seek to improve.

Let us begin then, by recognizing that by almost any measure, life is better for Americans in 1973 than ever before in our history, and better than in any other society of the world in this or any earlier age.

No previous generation of our people has ever enjoyed higher incomes, better health and nutrition, longer life-expectancy, or greater mobility and convenience in their lives than we enjoy today. None before us has had a better chance for fulfillment and advancement in their work, more leisure time and recreational opportunities, more widespread access to culture and the arts, or a higher level of education and awareness of the world around them. None has had greater access to and control over the natural and human forces that shape their lives, or better protection against suffering, inhumanity, injustice, and discrimination. And none has enjoyed greater freedom.

Secondly, let us recognize that the American system which has brought us so far so fast is not simply a system of Government helping people. *Rather it is a system under which Government helps people to help themselves and one another.*

The real miracles in raising millions out of poverty, for example, have been performed by the free-enterprise economy, not by Government anti-poverty programs. The integration of one disadvantaged minority after another into the American mainstream has been accomplished by the inherent responsiveness of our political and social system, not by quotas and coercion. The dramatic gains in health and medical care have come primarily through private medicine, not from federally-operated systems.

Even where the public sector has played a major role, as in education, the great strength of the system has derived from State and local governments' primacy and from the diverse mixture of private and public institutions in the educational process—both factors which have facilitated grassroots influence and popular participation.

We should not tamper lightly, then, with the delicately balanced social, economic, and political system which has been responsible for making this country the best place on earth to live—and which has tremendous potential to rectify whatever shortcomings may still persist.

But we Americans—to our great credit—are a restless and impatient people, a nation of idealists. We dream not simply of alleviating poverty, hunger, discrimination, ignorance, disease, and fear, but of eradicating them altogether—and we would like to do it all today.

During the middle and late 1960's, under the pressure of this impatient idealism, Federal intervention to help meet human needs increased sharply. Provision of services from Federal programs directly to individuals began to be regarded as the rule in human resources policy, rather than the rare exception it had been in the past.

The Government in those years undertook sweeping, sometimes almost utopian, commitments in one area of social concern after another. The State and local governments and the private sector were elbowed aside with little regard for the dislocations that might result. Literally hundreds of new programs were established on the assumption that even the most complex problems could be quickly solved by throwing enough Federal dollars at them.

Well-intentioned as this effort may have been, the results in case after case amounted to dismal failure. It was a classic case of elevating means to the status of ends in themselves. Hard evidence of actual betterment in people's lives was seldom demanded. Ever-larger amounts of funds, new agencies, and increased staff were treated as proof enough of success, simply because the motive was compassionate.

The American people deserve better than this. They deserve compassion that works—not simply compassion that means well. They deserve programs that say yes to human needs by saying no to paternalism, social exploitation and waste.

Protecting and enhancing the greatness of our society is a great goal. It is doubly important, therefore, that we not permit the worthiness of our objective to render us uncritical or careless in the means we select for attaining that objective.

It will increase our greatness as a society, for example, to establish the principle that no American family should be denied good health care because of inability to pay. But it will diminish our

greatness if we deprive families of the freedom to make their own health care arrangements without bureaucratic meddling.

It will increase our greatness to ensure that no boy or girl is denied a quality education. But it will diminish our greatness if we force hundreds of thousands of children to ride buses miles away from their neighborhood schools in order to achieve an arbitrary racial balance.

It will increase our greatness to establish an income security system under which no American family will have to suffer for lack of income or break up because welfare regulations encourage it. But it would erode the very foundations of our stability and our prosperity if we ever made it more comfortable or more profitable to live on a welfare check than on a paycheck.

PRINCIPLES FOR THE 1970'S

Consistently since 1969, this Administration has worked to establish a new human resources policy based on a healthy skepticism about Federal Government omniscience and omnicompetence, and on a strong reaffirmation of the right and the capacity of individuals to chart their own lives and solve their own problems through State and local government and private endeavor. We have achieved a wide variety of significant reforms.

Now the progress made and the experience gained over the past four years, together with the results of careful program reviews which were conducted over this period, have prepared us to seek broader reforms in 1973 than any we have requested before.

In the time since the outlines of these proposals emerged in the new budget, intense controversy and considerable misunderstanding about both their purposes and their effects have understandably arisen among persons of goodwill on all sides.

To provide a more rational, less emotional basis for the national debate which will—and properly should—surround my recommendations, I would invite the Congress to consider four basic principles which I believe should govern our human resources policy in the 1970's:

—Government at all levels should seek to support and nurture, rather than limit, the diversity and freedom of choice which are hallmarks of the American system. The Federal Government in particular must work to guarantee an equal chance at the starting line by removing barriers which might impede an individual's opportunity to realize his or her full potential.

—The Federal Government should concentrate more on providing incentives and opening opportunities, and less on delivering direct services. Such programs of direct assistance to individuals as the Federal Government does conduct must provide evenhanded treatment for all, and must be carefully designed to ensure that the benefits are actually received by those who are intended to receive them.

—Rather than stifling initiative by trying to direct everything from Washington, Federal efforts should encourage State and local governments to make those decisions and supply those services for which their closeness to the people best qualifies them. In addition, the Federal Government should seek means of encouraging the private sector to address social problems, thereby utilizing the market mechanism to marshal resources behind clearly stated national objectives.

—Finally, all Federal policy must adhere to a strict standard of fiscal responsibility. Ballooning deficits which spent our economy into a new inflationary spiral or a recessionary tailspin in the name of social welfare would punish most cruelly the very people whom they seek to help. On the other hand, continued additions to a personal tax burden which has already doubled since 1950 would reduce incentives for excellence and would conflict directly with the goal of allowing each individual to keep as much as possible of what he or she earns to permit maximum personal freedom of choice.

The new post of Counsellor to the President for Human Resources, which I have recently created within the Executive Office of the President, will provide a much-needed focal point for our efforts to see that these principles are carried out in all Federal activities aimed at meeting human needs, as well as in the Federal Government's complex relationships with State and local governments in this field. The coordinating function to be performed by this Counsellor should materially increase the unity, coherence, and effectiveness of our policies.

The following sections present a review of the progress we have made over the past four years in bringing each of the various human resources activities into line with these principles, and they outline our agenda for the years ahead.

HEALTH

I am committed to removing financial barriers that would limit access to quality medical care for all American families. To that end, we have nearly doubled Federal outlays for health since the beginning of this Administration. Next year, they will exceed $30 billion.

Nearly 60 percent of these funds will go to finance health care for older Americans, the disabled, and the poor, through Medicare and Medicaid.

But we have taken significant steps to meet other priority needs as well. In the last four years, funding for cancer and heart and lung disease research has more than doubled; it will amount to more than three-quarters of a billion dollars in 1974.

We have supported reform of the health care delivery system and have proposed legislation to assist in the development of health maintenance organizations on a demonstration basis. We have increased funds for programs which help prevent illness, such as those which help carry out our pure food and drug laws and those which promote consumer safety.

We have declared total war on the epidemic problem of drug abuse—and we are winning that war. We have come a long way toward our goal of creating sufficient treatment services so that any addict desiring treatment can obtain it. We are also making substantial investments in research to develop innovative treatment approaches to drug abuse. I will report in greater detail on our anti-drug effort in a later section of this year's State of the Union message.

Strong measures have been taken to ensure that health care costs do not contribute to inflation and price people out of the care they need. The rate of increase in physicians' fees was cut by two-thirds last year alone, and hospital price rises have also been slowed. To build on these gains, controls on the health services industry have been retained and will be strengthened under Phase III of the Economic Stabilization Program.

A major goal of this Administration has been to develop an insurance system which can guarantee adequate financing of health care for every American family. The 92nd Congress failed to act upon my 1971 proposal to accomplish this goal, and now the need for legislation has grown still more pressing. *I shall once again submit to the Congress legislation to help meet the Nation's health insurance needs.*

Federal health policy should seek to safeguard this country's pluralistic health care system and to build on its strengths, minimizing reliance on Government-run arrangements. We must recognize appropriate limits to the Federal role, and we must see that every health care dollar is spent as effectively as possible.

This means discontinuing federally funded health programs which have served their purpose, or which have proved ineffective, or which involve functions more suitably performed by State and local government or the private sector.

The Hill-Burton hospital grants program, for example, can no longer be justified on the basis of the shortage of hospital facilities which prompted its creation in 1946. That shortage has given way to a surplus—so that to continue this program would only add to the Nation's excess of hospital beds and lead to higher charges to patients. It should be terminated.

We are also proposing to phase out the community mental health center demonstration program while providing funding for commitments to existing arrangements extending up to eight years. This program has helped to build and establish some 500 such centers, which have demonstrated new ways to deliver mental health services at the community level.

Regional Medical Programs likewise can now be discontinued. The planning function they have performed can better be conducted by comprehensive State planning efforts. A second function of these programs, the continuing education of physicians who are already licensed, is an inappropriate burden for Federal taxpayers to bear.

EDUCATION

1973 must be a year of decisive action to restructure Federal aid programs for education. Our goal is to provide continued Federal financial support for our

schools while expanding State and local control over basic educational decisions.

I shall again ask the Congress to establish a new program of Education Revenue Sharing. This program would replace the complex and inefficient tangle of approximately 30 separate programs for elementary and secondary education with a single flexible authority for use in a few broad areas such as compensatory education for the disadvantaged, education for the handicapped, vocational education, needed assistance in federally affected areas, and supporting services.

Education Revenue Sharing would enlarge the opportunities for State and local decision-makers to tailor programs and resources to meet the specific educational needs of their own localities. It would mean less red tape, less paper work, and greater freedom for those at the local level to do what they think is best for their schools—not what someone in Washington tells them is best.

It would help to strengthen the principle of diversity and freedom in education that is as old as America itself, and would give educators a chance to create fresher, more individual approaches to the educational challenges of the Seventies. At the same time, it would affirm and further the national interest in promoting equal educational opportunities for economically disadvantaged children.

If there is any one area of human activity where decisions are best made at the local level by the people who know local conditions and local needs, it is in the field of primary and secondary education. I urge the Congress to join me in making this year, the third in which Education Revenue Sharing has been on the legislative agenda, the year when this much-needed reform becomes law.

The time has also come to redefine the Federal role in higher education, by replacing categorical support programs for institutions with substantially increased funds for student assistance. *My budget proposals have already outlined a plan to channel much more of our higher education support through students themselves, including a new grant program which would increase funds provided to $948 million and the number assisted to over 1,500,000 people—almost a five-fold increase over the current academic year.*

These proposals would help to ensure for the first time that no qualified student seeking postsecondary education would be barred from attaining it by a lack of funds—and they would at the same time reinforce the spirit of competition among institutions that has made American higher education strong. I urge their prompt enactment.

As we work to eliminate the unnecessary bureaucratic constraints currently hampering Federal education aid, we will also be devoting more attention to educational research and development through the new National Institute of Education.

Funding for NIE will increase by almost 50 percent in fiscal year 1974, reaching $162 million.

Finally, in order to enhance the diversity provided by our mixed educational system of public and private schools, I will propose to the Congress legislation to provide a tax credit for tuition payments made by parents of children who attend nonpublic elementary and secondary schools.

MANPOWER

The Federal manpower program is a vital part of our total effort to conserve and develop our human resources.

Up to the present time, however, the "manpower program" has been not a unified effort, but a collection of separate categorical activities, many of them overlapping. These activities now include such programs as Manpower Development and Training Act, Institutional Training programs, on-the-job training, Neighborhood Youth Corps, Public Service Careers, Operation Mainstream, and the Concentrated Employment Program. The net effect of several such programs operating in a single city seldom amounts to a coherent strategy for meeting the needs of people in that community.

While many well-run local programs are more than worth what they cost, many other individual projects are largely ineffective—and their failure wastes money which could be used to bolster the solid accomplishments of the rest.

Manpower programs ought to offer golden "second chances" for the less fortunate to acquire the skills and work habits which will help them become self-supporting, fully productive citizens. But as presently organized and managed, these second chance opportunities too often become just another dead-end exercise in frustration, rather than a genuine entree into a good job.

I believe that the answer to much of this problem lies in our program of Manpower Revenue Sharing—uniting several previously fragmented manpower activities under a single umbrella and then giving most of the responsibility for running this effort to those governments which are closest to the working men and women who need assistance. *In the next 16 months, administrative measures will be taken to institute this needed reform of the manpower system within the present legal framework.*

Manpower Revenue Sharing assistance will be freed from unnecessary Federal constraints, and aimed at developing jobs, equipping unemployed workers with useful work skills, and moving trainees into regular employment.

WELFARE

With the failure of the past two Congresses to enact my proposals for fundamental reform of the Nation's public assistance system, that system remains as I described it in a message last year—"a crazy quilt of injustice and contradiction that has developed in bits and pieces over the years."

The major existing program, Aid to Families with Dependent Children (AFDC), is as inequitable, inefficient, and inadequate as ever.

—The administration of this program is unacceptably loose. The latest national data indicate that in round numbers, one of every 20 persons on the AFDC rolls is totally ineligible for welfare; 3 more are paid more benefits than they are entitled to; and another is underpaid. About one-quarter of AFDC recipients, in other words, are receiving improper payments.

—Complex program requirements and administrative red tape at the Federal and State levels have created bureaucracies that are difficult to manage.

—Inconsistent and unclear definitions of need have diluted resources that should be targeted on those who need help most.

—Misguided incentives have discouraged employable persons from work and induced fathers to leave home so that their families can qualify for welfare.

After several years of skyrocketing increases, however, outlays for this program have begun to level off. This results from the strong resurgence of our economy and expansion of the job market, along with some management improvements in the AFDC program and strengthened work requirements which were introduced into the program last year.

Since the legislative outlook seems to preclude passage of an overall structural reform bill in the immediate future, I have directed that vigorous steps be taken to strengthen the management of AFDC through administrative measures and legislative proposals.

Under these reforms, Federal impediments to efficient State administration of the current AFDC system will be removed wherever possible. Changes will be proposed to reduce the complexities of current eligibility and payment processes. Work will continue to be required of all those who can reasonably be considered available for employment, while Federal funds to help welfare recipients acquire needed job skills will increase.

One thing is certain: the welfare mess cannot be permitted to continue. A system which penalizes a person for going to work and rewards a person for going on welfare is totally alien to the American tradition of self-reliance and self-respect. That is why welfare reform has been and will continue to be one of our major goals; and we will work diligently with the Congress in developing ways to achieve it.

NUTRITION

During the past four years, Federal outlays for food assistance have increased more than three-fold. Food stamp and food distribution programs for needy families have been extended to virtually every community in the country. More than 15 million persons are now receiving food stamps or distributed foods, more than double the 1969 total. More than 8 million schoolchildren are now being provided with free or reduced-price lunches—up from only 3 million in 1969.

We have made great strides toward banishing hunger and malnutrition from American life—and we shall continue building on that progress until the job is done.

OLDER AMERICANS

One measure of the Nation's devotion to our older citizens is the fact that programs benefitting them—including Social Security and a wide range of other

activities—now account for nearly one-fourth of the entire Federal budget.

Social Security benefits levels have been increased 51 percent in the last four years—the most rapid increase in history. Under new legislation which I initially proposed, benefits have also become inflation-proof, increasing automatically as the cost of living increases.

Over 1½ million older Americans or their dependents can now receive higher Social Security benefits while continuing to work. Nearly 4 million widows and widowers are also starting to receive larger benefits—$1 billion in additional income in the next fiscal year. And millions of older Americans will be helped by the new Supplemental Security Income program which establishes a Federal income floor for the aging, blind, and disabled poor.

Nevertheless, we are confronted with a major item of unfinished business. Approximately two-thirds of the twenty million persons who are 65 and over own their own homes. A disproportionate amount of their fixed income must now be used for property taxes. *I will submit to the Congress recommendations for alleviating the often crushing burdens which property taxes place upon many older Americans.*

I also ask the cooperation of the Congress in passing my 1974 budget request for $200 million to fund the programs of the Administration on Aging—a funding level more than four times that appropriated for AoA programs in fiscal year 1972. Half of this amount will be devoted to nutrition projects for the elderly, with the remainder going to assist States and localities in developing comprehensive service programs for older Americans.

In 1973, we shall continue to carry out the commitment I made in 1971 at the White House Conference on Aging: to help make the last days of our older Americans their best days.

ECONOMIC OPPORTUNITY

No one who started life in a family at the bottom of the income scale, as I did and as many Members of the Congress did, can ever forget how that condition felt, or ever turn his back on an opportunity to help alleviate it in the lives of others.

We in the Federal Government have such an opportunity to help combat poverty. Our commitment to this fight has grown steadily during the past decade, without regard to which party happened to be in power, from under $8 billion in total Federal anti-poverty expenditures in 1964 to more than $30 billion in my proposed budget for 1974.

And we have moved steadily closer to the goal of a society in which all our citizens, regardless of economic status, will have both the resources and the opportunity to fully control their own destinies.

At the beginning of this period, when Government found itself unprepared to respond to the sharp new national awareness of the plight of the disadvantaged, creation of an institutional structure separate from the regular machinery of Government and specifically charged with helping the poor seemed a wise first step to take. Thus the Office of Economic Opportunity was brought into being in 1964.

A wide range of useful anti-poverty programs has been conceived and put into operation over the years by the Office of Economic Opportunity. Some programs which got their start within OEO have been moved out into the operating departments and agencies of the Government when they matured, and they are thriving there. VISTA, for example, became part of ACTION in 1971, and Head Start was integrated with other activities focused on the first five years of life under HEW's Office of Child Development. OEO's other programs have now developed to a point where they can be similarly integrated.

Accordingly, in keeping with my determination to make every dollar devoted to human resources programs return 100 cents worth of real benefits to the people who most need those benefits, I have decided that most of the anti-poverty activities now conducted by the Office of Economic Opportunity should be delegated or transferred into the Cabinet departments relating to their respective fields of activity. Adhering strictly to statutory procedures, and requesting Congressional approval whenever necessary, I shall take action to effect this change.

This reorganization will increase the efficiency of the various programs by grouping them with other functionally related Federal efforts and by minimizing the overhead costs which in the past have diverted too much money from human needs into staff payrolls and administrative expenses. Funding for the transferred activities will stay level, or in many cases will even increase.

The only major OEO program for which termination of Federal funding is recommended in my budget is Community Action. New funding for Community Action activities in fiscal year 1974 will be at the discretion of local communities.

After more than 7 years of existence, Community Action has had an adequate opportunity to demonstrate its value within the communities it serves, and to build locally based agencies. OEO has taken steps to help Community Action agencies put down local roots through a program of incentives and training, and has incorporated the basic community action concept—participation in programs by the people whom the programs seek to serve—into all Federal anti-poverty activities. Further Federal spending on behalf of this concept, beyond the $2.8 billion which has been spent on it since 1965, no longer seems necessary or desirable.

LEGAL SERVICES

One other economic opportunity effort deserving special mention is the Legal Services Program. Notwithstanding some abuses, legal services has done much in its 7-year history to breathe new life into the cherished concept of equal justice for all by providing access to quality legal representation for millions of Americans who would otherwise have been denied it for want of funds.

The time has now come to institutionalize legal services as a permanent, responsible, and responsive component of the American system of justice.

I shall soon propose legislation to the Congress to form a legal services corporation so constituted as to permit its attorneys to practice according to the highest professional standards, provided with safeguards against politicization of its activities, and held accountable to the people through appropriate monitoring and evaluation procedures.

CIVIL RIGHTS

Protecting the civil rights of every American is one of my firmest commitments as President. No citizen should be denied equal justice and equal opportunity in our society because of race, color, sex, religion, or national origin.

This Administration has steadily increased the Federal financial commitment in this field. Outlays for civil rights and equal opportunity in 1974 will pass $3 billion—3½ times what they were when we took office.

We have worked hard—and with good results—to end *de jure* school segregation, to promote equal job opportunity, to combat housing discrimination, to foster minority business enterprise, to uphold voting rights, to assist minority higher education, to meet minority health problems like sickle cell anemia, and to make progress on many other fronts.

Now that equal opportunity is clearly written into the statute books, the next and in many ways more difficult step involves moving from abstract legal rights to concrete economic opportunities. We must ensure real social mobility—the freedom of all Americans to make their own choices and to go as far and as high as their abilities will take them. Legislation and court decisions play a major part in establishing that freedom. But community attitudes, government programs, and vigor of the economic system all play large parts as well.

I believe that we have made progress, and we shall continue building on that progress *in the coming year:*

—The Department of Justice will expand its efforts to guarantee equal access to, and equal benefit from, Federal financial assistance programs.

—The Equal Employment Opportunity Commission will receive additional resources to carry out its expanded responsibilities.

—The Civil Service Commission will expand its monitoring of equal employment opportunities within the Federal Government.

—Efforts to assure that Federal contractors provide equal access to job opportunities will be expanded.

—The Small Business Administration will expand its loan program for minority business by nearly one-third.

—The Commission on Civil Rights will receive additional resources to carry out its newly granted responsibilities.

Additionally, in the year ahead, we will continue to support ratification of the Equal Rights Amendment to the Constitution so that American women—not a minority group but a majority of the

whole population—need never again be denied equal opportunity.

THE AMERICAN INDIAN

For Indian people the policy of this Administration will continue to be one of advancing their opportunities for self-determination, without termination of the special Federal relationship with recognized Indian tribes.

Just as it is essential to put more decision-making in the hands of State and local governments, I continue to believe that Indian tribal governments should assume greater responsibility for programs of the Bureau of Indian Affairs and the Department of Health, Education, and Welfare which operate on their reservations. *As I first proposed in 1970, I recommend that the Congress enact the necessary legislation to facilitate this take-over responsibility. Also, I recommend that the 1953 termination resolution be repealed.* Meanwhile the new statutory provisions for Indian tribal governments under General Revenue Sharing will assist responsible tribal governments in allocating extra resources with greater flexibility.

I shall also propose new legislation to foster local Indian self-determination by developing an Interior Department program of bloc grants to Federally recognized tribes as a replacement for a number of existing economic and resource development programs. The primary purpose of these grants would be to provide tribal governments with funds which they could use at their own discretion to promote development of their reservations.

Indian tribal organizations and Indians seeking to enter business need easier access to loan and credit opportunities; I proposed in 1970 and will again propose legislation to accomplish this objective.

Because Indian rights to natural resources need better protection, I am again urging the Congress to create an Indian Trust Counsel Authority to guarantee that protection.

In the two and one-half years that Indians have been waiting for the Congress to enact the major legislation I have proposed, we have moved ahead administratively whenever possible. We have restored 21,000 acres of wrongfully acquired Government land to the Yakima Tribe. We have filed a precedent-setting suit in the Supreme Court to protect Indian water rights in Pyramid Lake. My fiscal year 1974 budget proposes total Federal outlays of $1.45 billion for Indian affairs, an increase of more than 15 percent over 1973.

To accelerate organizational reform, I have directed the Secretary of the Interior to transfer day to day operational activities of the Bureau of Indian Affairs out of Washington to its field offices. *And I am again asking the Congress to create a new Assistant Secretary position within the Interior Department to deal with Indian matters.*

VETERANS

With the coming of peace, the Nation's inestimable debt to our veterans and their dependents will continue to command a high priority among the human resource efforts of this Administration.

During the past four years, I have twice signed legislation increasing the allowances for educational assistance to veterans. Nearly 2 million veterans are now in some form of training under the GI Bill for Vietnam-era veterans. Pension payments to veterans or their survivors who need income support have also been raised twice and the test of need has been greatly improved, including a more equitable formula for adjusting the VA pension rate when other sources of income, such as Social Security, are increased. The VA pension program now directly benefits over 2 million individuals.

Compensation payments for service-related disabilities have been raised on two occasions, and more than 2 million veterans of all wars now receive this benefit. The service-disabled veteran deserves special concern. In addition to top-priority consideration in medical care, my budget calls for VA outlays to provide disabled Vietnam-era veterans with vocational rehabilitation, housing grants, and specially equipped automobiles to be nearly doubled in 1974 compared to their 1971 level. Disability compensation is also being intensively reviewed to ensure that disabled veterans will receive compensation payments which fully recognize their earnings impairment.

VA guaranteed home loans for veterans have risen by almost two-thirds since we took office. And high-priority job programs have decreased the unemployment rate among Vietnam-era veterans by almost one-third during the past year alone.

Dramatic progress has been made in the veterans medical care program. A high level of construction and modernization of the VA medical facilities has been carried on. The total number of medical care personnel staffing VA facilities has increased by one-sixth since 1969. The total number of veterans treated—both in VA facilities and as outpatients—has risen to new highs. Beneficiaries treated as hospital inpatients will go over the million mark in fiscal 1974 for the first time. Outpatient visits will climb to almost 14,000,000—about twice the level of 1969.

Since 1969, there has also been a steady shortening of the average length of stay in VA hospitals, a highly desirable objective from every viewpoint. This means that VA hospitals have fewer patients in bed on an average day, with shorter waiting lists, even though the total number of patients treated has gone up.

Misunderstanding these statistics, some have sought to establish by law a numerical minimum average daily patient census in VA hospitals. But such a fixed daily census would represent a backward step: it would force a sharply increased length-of-stay—an effect that is medically, economically, and socially undesirable. It is far better that our veterans be restored to their families and jobs as rapidly as feasible, consistent with good medical care. A fixed patient census would tie the hands of those seeking to serve veterans' health needs; I urge the Congress not to enact such a requirement.

The Congress is now studying several bills involving the VA pension program and cemetery and burial benefits for veterans. I hope that the Congress will work to see that the veterans pension program is realistically structured and compatible with other major income maintenance programs. On the burial benefits question, I urge that legislative action be deferred until completion of a study currently being conducted by the Administrator of Veterans Affairs to determine the most equitable approach to improving burial and cemetery benefits for veterans. The Administrator's recommendations will be made available to the Congress in the near future.

CONSUMER AFFAIRS

The self-reliance and resourcefulness of our people when they enter the marketplace as consumers, the generally high standard of ethics and social responsibility upheld by business and industry, and the restrained intervention of government at various levels as a vigorous but not heavy-handed referee of commerce—that combination of factors, in that order, has been largely responsible for confounding predictions that American capitalism would breed its own downfall in the 20th century. We must build on each of these strengths in our efforts to protect the rights of the consumer as well as the vigor of the free enterprise economy in the 1970's.

Early in 1971, after the Congress had failed to act on my "Buyer's Bill of Rights" proposal for a new Office of Consumer Affairs directly under the President, I established such an office by executive order. Under the direction of my Special Assistant for Consumer Affairs, OCA has helped to create a stronger consumer consciousness throughout the executive branch.

This office is now ready to integrate its operations more fully with the line departments of the Government, and has accordingly been transferred into the Department of Health, Education and Welfare—the logical base for an agency concerned with human well-being.

From this new base the Office of Consumer Affairs will continue its policy formation role and educational efforts, and will also take on additional responsibilities, including representing consumer interests in testimony before the Congress and acting as a general ombudsman for the individual consumer.

VOLUNTARY ACTION

Many thousands of Americans already are volunteering their time to meet human needs in their communities—fighting disease, teaching children to read, working to solve local social problems. But now we must do more to tap the enormous reservoir of energy represented by millions of other potential citizen volunteers.

That is why three years ago I encouraged a number of our leading citizens to create the National Center for Voluntary Action to support private volunteer efforts; that is why two years ago I established the new ACTION agency to strengthen Federal volunteer programs.

We must now continue seeking new avenues of citizen service. As we turn from the concerns of war, may all Americans accept the challenge of peace by volunteering to help meet the needs of

their communities—so that we can mobilize a new army of concerned, dedicated, able volunteers across the Nation.

ARTS AND HUMANITIES

I know that many in the Congress share the concern I have often expressed that some Americans, particularly younger people, lost faith in their country during the 1960's. I believe this faith is now being reborn out of the knowledge that our country is moving toward an era of lasting peace in the world, toward a healthier environment, and toward a new era of progress and equality of opportunity for all our people.

But renewed faith in ourselves also arises from a deeper understanding of who we are, where we have come from, and where we are going—an understanding to which the arts and the humanities can make a great contribution.

Government has a limited but important function in encouraging the arts and the humanities—that of reinforcing local initiatives and helping key institutions to help themselves. With the approach of our Bicentennial, we have a special opportunity to draw on the enrichment and renewal which cultural activity can provide in our national life. With this in mind, my 1974 budget requests further expansion of the funds for the National Foundation on the Arts and the Humanities, to a new high of $168 million. I ask continued full support from the Congress for this funding.

SAYING YES

Carl Sandburg spoke volumes about this country's past and future in three simple words that became the title for one of his greatest poems: "The People, Yes."

America has risen to greatness because again and again when the chips were down, the American people have said yes—yes to the challenge of freedom, yes to the dare of progress, and yes to the hope of peace—even when defending the peace has meant paying the price of war.

America's greatness will endure in the future only if our institutions continually rededicate themselves to saying yes to the people—yes to human needs and aspirations, yes to democracy and the consent of the governed, yes to equal opportunity and unlimited horizons of achievement for every American.

1973 is a year full of opportunity for great advances on this front. After more than a decade of war, we have successfully completed one of the most unselfish missions ever undertaken by one nation in the defense of another. Now the coming of peace permits us to turn our attention more fully to the works of compassion, concern, and social betterment here at home.

The seriousness of my commitment to make the most of this opportunity is demonstrated by the record level of funding for human resource programs proposed in our new budget—$125 billion in all—nearly twice the amount that was being spent on such programs when I took office in 1969.

This is both a generous budget and a reform budget. The reforms it proposes will put muscle behind the generosity it intends. The overall effect of these reforms will be the elimination of programs that are wasteful so that we can concentrate on programs that work. They will make possible the continued growth of Federal efforts to meet human needs—while at the same time helping to prevent a runaway deficit that could lead to higher taxes, higher prices, and higher interest rates for all Americans.

The opportunity is ours, executive and legislative branches together, to lead America to a new standard of fairness, of freedom, and of vitality within our federal system. We can forge a new approach to human services in this country—an approach which will treat people as more than mere statistics—an approach which recognizes that problems like poverty and unemployment, health care and the costs of education are more than cold abstractions in a government file drawer.

We know how tough these problems are, because many of us grew up with them ourselves. But we also know that with the right kind of help and the right kind of spirit they can be overcome.

Let us give all our citizens the help they need. But let us remember that each of us also bears a basic obligation to help himself and to help our fellowman, and that no one else can assume that obligation for us—least of all the Federal Government.

If we shirk our individual responsibility, the American dream will never be more than a dream.

But if the people say yes to this challenge, if government says yes to the people—and if all of us in Washington say no to petty quarrels and partisanship and yes to our public trust—then we can truly bring that dream to life for all Americans in the new day of peace that is dawning.

RICHARD NIXON.

THE WHITE HOUSE, *March 1, 1973.*

REFERRAL OF PRESIDENT'S MESSAGE ON THE STATE OF THE UNION TO VARIOUS COMMITTEES

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the President's message received today, which is another portion of the state of the Union report, be jointly referred to the Committees on Agriculture and Forestry, Finance, Government Operations, Interior and Insular Affairs, Judiciary, Labor and Public Welfare, and Veterans' Affairs inasmuch as the predominance of the subject matter covered therein falls within the respective jurisdictions of these standing committees.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements therein limited to 3 minutes.

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

Mr. ROBERT C. BYRD. 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. 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.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. JOHNSON) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION FROM THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials (with an accompanying paper); to the Committee on Commerce.

SUPPLEMENTAL REPORT ON WHAT SHOULD U.S. POLICY BE FOR DEVELOPMENT ASSISTANCE TO ECUADOR

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential supplemental report on "What Should United States Policy Be for Development Assistance to Ecuador?" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE JEWISH WAR VETERANS U.S.A. NATIONAL MEMORIAL

A letter from the President, Jewish War Veterans U.S.A. National Memorial, Inc., Washington, D.C., transmitting, pursuant to law, a report of that organization, for the fiscal year ended March 31, 1972 (with an accompanying report); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAKER, from the Committee on Public Works, with an amendment:

S. Con. Res. 6. Concurrent resolution making apportionment of funds for the National System of Interstate and Defense Highways (Rept. No. 93–52).

AMENDMENT OF JOINT RESOLUTION ESTABLISHING THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION—ORDER FOR STAR PRINT OF REPORT

Mr. HRUSKA. Mr. President, H.R. 3694 would authorize an appropriation of $3,356,000 for the funding of the American Revolution Bicentennial Commission for the remaining months of fiscal 1973. Last fall the Commission authorized the amount of $3,356,000, which was one-half of the amount originally requested for the whole of fiscal year 1973 and provided that the period for the authorization would end February 15, 1973.

The effect of the amount provided for in this bill is to authorize appropriations of an amount not to exceed that same

amount, namely $3,356,000. It should be noted that existing law provides that not to exceed $2,400,000 of the current appropriation is to be for the second year of a grant-in-aid for each of the States. I understand that the States have yet to be paid half that amount of $1,200,000.

House action last fall was occasioned by certain charges made against the Commission which have been investigated by the General Accounting Office and a staff study of the activities of the Commission directed by the House Judiciary Committee. It was the view of the House of Representatives that the important work of the American Revolution Bicentennial Commission should continue pending completion of these investigations and that the Congress should have an opportunity early in the next session to consider further funding for the American Revolution Bicentennial Commission in the light of the completion of the reports of the General Accounting Office and the staff of the House Judiciary Committee.

The House bill, subsequently concurred in by the Senate, authorized appropriations only until February 15, 1973. This bill, therefore, would authorize appropriations for the remaining months of fiscal 1973.

The reports of the General Accounting Office and the staff study of the House Judiciary Committee have now been completed and submitted to the Congress. Furthermore, the executive branch has submitted to the Congress proposed legislation to establish a new Government agency entitled "The American Revolution Bicentennial Administration." It is anticipated that early action will be taken by the Congress on restructuring the Bicentennial Commission, to become effective July 1, 1973.

In the remaining months of fiscal year 1973, while the Congress is considering what changes are to be made in bicentennial planning and organizational structure, it is essential that planning be developed and momentum maintained if there is to be a meaningful commemoration of the Nation's 200th birthday.

It is necessary for the work of the Commission to go forward while the Congress is working on the restructuring bill, and, therefore, this authorizing appropriation legislation for funding for the remaining months of fiscal 1973 should be speedily approved.

This bill is necessary because the House and Senate Appropriation Committees have already included funding for the Commission in the amount of $2,868,000 for the balance of this fiscal year. House Joint Resolution 345 which would accomplish this is at the White House awaiting the President's approval.

Mr. President, I ask unanimous consent for a star print of the committee report to accompany H.R. 3694 so as to correct an error in that report. The authorization request for funding for the period February 16 through June 30, 1973, is $3,356,000, rather than the figure of $2,868,000, as stated in the report.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. HARTKE:

S. 1058. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder. Referred to the Committee on Finance.

By Mr. RIBICOFF:

S. 1059. A bill to establish a Department of Education. Referred to the Committee on Government Operations.

By Mr. CRANSTON:

S. 1060. A bill for the relief of Daniel F. Soltice. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 1061. A bill to amend the Consolidated Farm and Rural Development Act to modify the provisions relating to emergency loans, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. SCHWEIKER:

S. 1062. A bill to amend the Flammable Fabrics Act to provide for a certification procedure, and for other purposes. Referred to the Committee on Commerce.

By Mr. HUMPHREY:

S. 1063. A bill to establish a program of nutrition education for children as a part of the national school lunch and child nutrition programs and to amend the National School Lunch and Child Nutrition Acts for purposes related to strengthening the existing child nutrition programs. Referred to the Committee on Agriculture and Forestry.

By Mr. BURDICK:

S. 1064. A bill to improve judicial machinery by amending title 28, United States Code, to broaden and clarify the grounds for judicial disqualification. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 1065. A bill to amend section 1306(a) of the Federal Aviation Act of 1958, as amended, to authorize the investment of the war risk insurance fund in securities of, or guaranteed by, the United States. Referred to the Committee on Commerce.

S. 1066. A bill to amend title 49, United States Code, to provide for criminal penalties for all who knowingly and willfully refuse or fail to file required reports, keep required data or falsify records; provide criminal penalties for unlawful carriage of persons for compensation or hire; to increase the civil penalty limits; and for other purposes: Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1067. A bill to amend the Oil Pollution Act, 1961 (75 Stat. 402), as amended, to implement the 1969 and 1971 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes. Referred to the Committee on Commerce.

S. 1068. A bill to ratify certain payments made by the United States under the Federal Airport Act, as amended. Referred to the Committee on Commerce.

S. 1069. A bill to provide for the conservation and management of fisheries and for other purposes. Referred to the Committee on Commerce.

S. 1070. A bill to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969. Referred to the Committee on Commerce.

By Mr. JOHNSTON:

S. 1071. A bill for the relief of Mato Cibilic. Referred to the Committee on the Judiciary.

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

S. 1072. A bill to amend title 23 of the United States Code to authorize the expenditure of Federal-aid highway funds on toll roads which are part of the Interstate System. Referred to the Committee on Public Works.

By Mr. JAVITS:

S. 1073. A bill for the relief of George Hector;

S. 1074. A bill for the relief of Carmelo Sesso; and

S. 1075. A bill for the relief of Imre Pallo. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself, Mr. RANDOLPH, Mr. HUGHES, and Mr. CRANSTON):

S. 1076. A bill relating to the authority of the Administrator of Veterans' Affairs to readjust the schedule of rating for the disabilities of veterans; to the construction, alteration, and acquisition of hospitals and domiciliary facilities; to the closing of hospital and domiciliary facilities and regional offices; and to the transfer of real property under the jurisdiction or control of the Administration of Veterans' Affairs. Referred to the Committee on Veterans Affairs.

By Mr. JAVITS:

S. 1077. A bill for the relief of Patricia C. LiBassi. Referred to the Committee on the Judiciary.

By Mr. DOMINICK:

S. 1078. A bill to authorize appropriations for the activities of the National Science Foundation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. FONG:

S. 1079. A bill to establish an Advisory Commission on the Reconstruction and Redevelopment of Southeast Asia. Referred to the Committee on Foreign Relations.

By Mr. BAYH:

S. 1080. A bill to provide for the establishment of a Foreign Service grievance procedure. Referred to the Committee on Foreign Relations.

By Mr. JACKSON:

S. 1081. A bill to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAYH (for himself, Mr. WEICKER, Mr. GURNEY, Mr. BEALL, Mr. ROBERT C. BYRD, Mr. JAVITS, Mr. STAFFORD, and Mr. STEVENSON):

S. 1082. A bill to repeal the bread tax, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. BAYH:

S. 1083. A bill to amend certain provisions of Federal law relating to explosives. Referred to the Committee on the Judiciary.

S. 1084. A bill to extend benefits under section 8191 of title 5, United States Code, to law enforcement officers and firefighters not employed by the United States who are killed or totally disabled in the line of duty. Referred to the Committee on Post Office and Civil Service.

By Mr. MONDALE (for himself and Mr. BROOKE):

S. 1085. A bill to promote the foreign policy and best interests of the United States by authorizing the President to negotiate a commercial agreement including a provision for most-favored-nation status with Romania. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARTKE:

S. 1058. A bill to amend title II of the Social Security Act so as to liberalize

the conditions governing eligibility of blind persons to receive disability insurance thereunder. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, when the 92d Congress passed the increase in the debt ceiling bill last year, it not only provided a 20-percent across-the-board increase in social security payments, but it also provided a mechanism that would automatically increase social security payments as the consumer price index indicates a rise in the cost of living. The bill I am introducing today would incorporate this very same cost-of-living mechanism into the provisions of title XVI, the supplemental security income program for the aged, blind, and disabled title of the Social Security Act.

I would remind my colleagues that when H.R. 1—Public Law 92-603—started its torturous way through the Congress, it provided that Federal payments for the needy, aged, blind, and disabled would be $130 a month for the first year, $140 a month for the next year, and $15 a month for the third year.

However, when H.R. 1 finally emerged as enacted public law, it provided only that Federal payments for the aged, blind, and disabled could be and would remain at $130 a month.

My bill is an effort to rectify this deficiency and to make sure—just as we have already made sure for social security beneficiaries—that as the cost-of-living goes up, as prices for food, clothing, and shelter, and the other necessities of life rise, that those who must live on welfare, those who must depend for survival support upon title XVI assistance wil not be compelled to endure needless deprivation and hardship.

Mr. President, conscience and consistancy demand that we pass the bill I am introducing today. I ask unanimous consent that my bill be printed in the RECORD following these remarks.

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

S. 1058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 214(a) of the Social Security Act is amended by inserting "or" at the end of paragraph (3) and adding after paragraph (3) the following new paragraph:

"(4) in the case of an individual who has died and who was entitled to a benefit under section 223 for the month before the month in which he died, 6 quarters of coverage;".

(b) Section 215(b)(1) of such Act is amended by striking out "shall be the quotient" and inserting in lieu thereof "shall (except as provided in paragraph (5)) be the quotient".

(c) Section 215(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of an individual who is blind (within the meaning of 'blindness' as defined in section 216(i)(1)(B)), such individual's average monthly wage shall be the quotient obtained by dividing (i) the total of his wages paid in, and self-employment income credited to, all of the calendar quarters which are quarters of coverage (as defined in section 213) and that fall within the period after 1950 and prior to the year specified in clause (i) or clause (ii) of paragraph 2(C), by (ii) the number of months in such quarters, except that any such individual who is fully insured (without regard to section 214(a)(4)) shall have his average monthly wage computed under this subsection without regard to this paragraph, if such computation results in a larger primary insurance amount."

(d) Paragraph (3) of section 216(i) of such Act is amended to read as follows:

"(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any quarter only if —

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such quarter and (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or (ii) if such quarter ends before he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage; or

"(B) he is blind (within the meaning of 'blindness' as defined in section 216(i)(1)(B)) and has not less than 6 quarters of coverage in the period which ends with such quarter.

For purposes of clauses (i) and (ii) of subparagraph (A) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period of disability unless such quarter was a quarter of coverage."

(e) The first sentence of section 222(b)(1) of such Act is amended by inserting "(other than such an individual whose disability is blindness, as defined in section 216(i)(1)(B))" after "an individual entitled to disability insurance benefits".

(f) Section 223(a)(1) of such Act is amended—

(1) by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof "or whose disability is blindness (as defined in section 216(i)(1)(B)),";

(2) by striking out "the month in which he attains age 65" and inserting in lieu thereof "in the case of any individual other than an individual whose disability is blindness (as defined in section 216(i)(1)(B)), the month in which he attains age 65"; and

(3) by deleting the second sentence thereof.

(g) Paragraph (1) of section 223(c) of such Act is amended to read as follows:

"(1) An individual shall be insured for disability insurance benefits in any month if—

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such month, and (i) he had not less that 20 quarters of coverage during the 40-quarter period which ends with the quarter in which such month occurred, or (ii) if such month ends before the quarter in which he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, or

"(B) he is blind (within the meaning of 'blindness' as defined in section 216(i)(1)(B)) and has not less than six quarters of coverage in the period which ends with the quarter in which such month occurs.

"For purposes of clauses (i) and (ii) of subparagraph (A) of this paragraph, when the number of quarters in any period in an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage."

(h) Section 223(d)(1)(B) of such Act is amended to read as follows:

"(B) blindness (as defined in section 216(i)(1)(B))."

(i) The second sentence of section 223(d)(4) of such Act is amended by insertng "(other than an individual whose disability is blindness, as defined in section 216(i)(1)(B))" immediately after "individual".

SEC. 2. In the case of an insured individual who is under a disability (as defined in section 223(d)(1)(B)), who is entitled to monthly benefits under section 202(a) or 223 for a month after the month in which this Act is enacted, and who applies for a recomputation of his disability insurance benefit or for a disability insurance benefit (if he is entitled under section 202(a)) in or after the month in which this Act is enacted, the Secretary shall, notwithstanding the provisions of paragraph (5) of section 215(b) as amended by this Act, make a recomputation of such benefit if such recomputation results in a higher primary insurance amount.

SEC. 3. The amendments made by this Act shall apply only with respect to monthly benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted.

By Mr. RIBICOFF:

S. 1059. A bill to establish a Department of Education. Referred to the Committee on Government Operations.

DEPARTMENT OF EDUCATION

Mr. RIBICOFF. Mr. President, I introduce for appropriate reference, the Department of Education Act of 1973. Last year we passed the Education Amendments of 1972, Public Law 92-318. That legislation, which established a National Institute of Education, was a step on the road to a separate Department of Education. Now is the time to move forward and establish such a Department.

A Department of Education is needed to coordinate and consolidate Federal education programs administered by 29 Federal agencies, costing $12 billion a year and affecting more than 64 million full-time students and teachers and many more millions of persons participating in education part time.

The new Department would absorb the functions of the Office of Education in the Department of Health, Education, and Welfare. Also taken over would be the Job Corps, Project Head Start, and Follow Through and the educational programs of the Manpower and Development Training Act.

The Department of Education would take over certain education-related programs of the National Science Foundation as well as the educational TV facilities programs of the Department of Health, Education, and Welfare and the college housing program at the Department of Housing and Urban Development.

Other activities the Department of Education would assume would be the schools operated by the Bureau of Indian Affairs, the depeidents' schools administered by the Defense Department and

the graduate school run by the Department of Agriculture.

In addition, the new Department would absorb the National Institute of Education.

This legislation calls for formation of two advisory groups:

The Federal Interagency Committee on Education, consisting of representatives of Federal agencies, would coordinate Federal efforts affecting education but would be beyond the jurisdiction of the Department of Education.

The National Advisory Commission on Education, composed of educators and concerned persons appointed by the President and confirmed by the Senate, would advise the Secretary of Education.

This legislation consolidates responsibility for education at the Federal level and affords an opportunity for the first time to properly order, analyze, and carry out Federal policy for education in this Nation.

I proposed similar legislation in 1965, 1967, and 1971. The intervening years have only increased the importance of coordinating the Federal role in education. Today Federal agencies manage education programs with no coordination and little cooperation. Millions of Americans are educated through Federal programs as diverse as those of the Office of Child Development, the Defense Department, the Job Corps, and the Bureau of Indian Affairs. Nearly 6 percent of the Federal budget supports education. The $12 billion we now spend is a 500-percent increase over our activities in 1962 when I was Secretary of Health, Education, and Welfare. In addition, there are now more than 20 poorly coordinated Federal advisory councils and commissions for education.

Education plays a critical role in the lives of all Americans. More than 60 million Americans are now full-time students; 3.3 million more are professional staff. These figures do not include the millions of children who watch "Sesame Street" or the millions who receive formal education each year from industry, the military, Federal manpower programs, and adult and continuing education. When we include all of these people, 125 million Americans are part of this country's educational system.

Expenditures for formal education will exceed $65 billion this fiscal year and will be handled by 50 States, five territories, the Federal Government, 18,000 operating school districts, and more than 2,500 institutions of higher education.

But arguments of scale are only one part of the reason for better coordination and execution of the Federal role in education. We must also recognize the present importance of education and educational policy to American society, and the increase in that significance in the decades ahead. This is not just a question of increasing enrollments or expenditures.

Our society and technology continue to increase in complexity and require individuals possessed of more sophisticated educational background and preparation. In addition, one of the dominant features of contemporary life is change. It is all about us, its pace increasing, its impact on our lives more insistent.

High technology, population growth, unprecedented advances in communications and data processing, the systematic pursuit of knowledge, and the managerial revolution have stamped the present and the future with the characteristic of continual change. This new relationship of education to our lives requires that we reconsider the education system's capacity to renew and redefine itself, to reflect, anticipate, and help guide the changes which we will all experience.

My legislation is structured to achieve this. First, it establishes a separate Department of Education to serve as a focal point within the Federal Government for defining educational policy and administering Federal education programs. The proposed department would advise the President of the United States about the progress and the future of education and the appropriate policies and programs needed to foster the orderly growth and development of educational resources and facilities in the Nation. The department would conduct necessary studies, collect data and provide information and other assistance to those engaged in the development of comprehensive planning relating to education.

The new department would be specifically charged with responsibility for facilitating the continuing renewal of education in America. Assistance in this area is provided by the National Institute of Education which has been previously established to carry out the full range of research and development required to improve education in the Nation.

In addition, an advisory body, the National Advisory Commission on Education, would be created to provide the Secretary with a high-level policy advisory board. The need for such a body has been well documented. The National Advisory Commission proposed in my bill would be appointed by the President, confirmed by the Senate, and staffed independently. The Commission would assess the general progress of education, particularly in light of Federal policy, offer advice concerning present and future direction of such policies and programs, and work with the Secretary to devise an effective advisory structure for the department.

Within the new Department, the bill would create the positions of Secretary, Under Secretary, six Assistant Secretaries, and a Chief Counsel. It would retain the positions, in slightly altered rank, of the Commissioner of Education and the Director of the National Institute of Education.

Finally, the Secretary would be required to report annually to the Congress on the progress of education with special emphasis on the kinds of data necessary for Congress to legislate effectively. Particular attention is given to the presentation of data concerning the results of education, whether as a consequence of Federal programs or not.

The Secretary would also be required to identify each year policy issues which are of particular importance, and to present to the Congress a detailed analysis of the full dimensions of those issues—what their causes are, why they are important and what solutions exist to major problems.

The primary objective of this legislation is to locate responsibility for analyzing and defining educational policy within the Federal Government. But several other principles are also essential.

First, those responsible for policy need to be familiar with the operational problems of the area within which they work. The tradition of a Federal role in education is long—it dates back to the Northwest Ordinance—but the principle of local control of education dates back even further and is firmly established within our constitutional framework.

The second principle in this bill is the need to plan for the future. Educational policy must be oriented to the future. The time between the identification of educational policy needs, the incorporation of solutions into operational programs, and the achievement of desired results is often many years. Graduate programs, for example, require 4 to 8 years to begin to produce desired types of manpower. It will be 12 to 20 years before Head Start has its hoped-for effect in the society. In light of leadtimes like this, long-range perspectives are essential.

Third, my legislation recognizes the broad range of educating agencies and institutions in our society. Educational policy deliberations are normally directed to schools, colleges, and universities. But we have developed a better understanding in recent years of the numerous agencies and influences beyond the schools which have an impact on education. We know that industry, the military, the Peace Corps, and Vista all perform educational functions, formal and informal, intended and unintended.

As the new Department addresses educational policy issues, therefore, it should consider such issues from the dual perspectives of the basic educational systems—preschool, elementary and secondary schooling, and higher education—and the nonschool educational systems such as those just identified.

Finally, an idea that occupies a central position in this bill is the concept that the Federal role in education should be to stimulate, facilitate, and help bring about renewal in the educational systems of the Nation. This idea is closely related, of course, to the impact of the future and rapid change in our society upon educational goals and the institutional structures the Nation possesses for education.

The Federal Government should lead the way in uncovering the knowledge, developing new techniques, and making them available to our schools and colleges. Our curriculum must be up to date and the methods used should be based on the most current knowledge about learning and teaching. Schools and universities should be structured to generate their own renewal.

The time has come to end the uncertain status of education in the Federal Government. Education must be represented at the highest levels of policy discussion. Its voice must be strengthened through the consolidation of programs, which rightly belong together. These needed steps would be accomplished

through the provisions of the bill I introduced today.

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

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

S. 1059

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 "Department of Education Act of 1973".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that—

(1) education is the largest single category of domestic public expenditure in the Nation;

(2) the role and importance of education increases as our society becomes more complex and more affluent;

(3) public policy toward education is vital to the present and long-range interests of the United States;

(4) education must be broadly conceived in terms of all those forces, institutions, and agencies which function as educating influences in the United States;

(5) the United States is the only major Nation which does not have a Cabinet-level department of education; and

(6) it is essential therefore to establish a Department of Education to administer and coordinate Federal education legislation, weigh and consider major educational policy issues confronting the Nation, and facilitate a continuing renewal of the educating institutions of the United States.

DEPARTMENT OF EDUCATION ESTABLISHED

SEC. 3. There is hereby established as an executive department of the Government, the Department of Education.

OFFICERS

SEC. 4. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) There shall be in the Department an Under Secretary of Education who shall be appointed by the President by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe during the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary.

(c) There shall be in the Department six Assistant Secretaries of Education and a General Counsel. Each of the Assistant Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability, or in the event of vacancies in the offices, of the Secretary and Under Secretary, the Assistant Secretaries and the General Counsel shall act as Secretary in the order prescribed by the Secretary.

FUNCTIONS OF THE DEPARTMENT

SEC. 5 (a) It is the principal function of the Department to promote the advancement of education throughout the United States.

(b) In addition to any other function of the Secretary under the provisions of this Act, the Secretary is authorized to—

(1) advise the President with respect to the progress of education;

(2) develop and recommend to the President appropriate policies and programs to foster the orderly growth and development of the Nation's educational facilities and resources especially in the light of long-range requirements;

(3) exercise leadership at the direction of the President in coordinating Federal activities affecting education;

(4) conduct continuing comprehensive surveys, collect, analyze, and disseminate relevant information concerning education in the United States;

(5) provide information and such other assistance as may be authorized by the Congress to aid in the maintenance of efficient school, college, and university systems;

(6) encourage comprehensive long-range planning by State and local governments, especially with respect to coordinating Federal, State, and community educational activities at the local level; and

(7) conduct studies, make recommendations, and administer discretionary programs to facilitate the continuing renewal of the American educational system.

TRANSFER OF AGENCIES

SEC. 6. (a) All officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices or parts of agencies or offices, are hereby transferred to the Department:

(1) the Education Division of the Department of Health, Education, and Welfare;

(2) the Office of Child Development of the Department of Health, Education, and Welfare;

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice to and making recommendations concerning education.

(c) In any case where all of the functions of any agency or office are transferred pursuant to this Act, except any committee transferred under paragraph (4) of subsection (a) of this section, such agency or office shall lapse.

TRANSFER OF FUNCTIONS

SEC. 7. (a) There are hereby transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare—

(1) with respect to and being administered by him through the Education Division;

(2) with respect to and being administered by him through the Office of Child Development;

(3) with respect to all Federal laws concerning the relationship between Gallaudet College, Howard University, Freedmen's Hospital, and American Printing House for the Blind, and the Department of Health, Education, and Welfare;

(4) under section 394 of the Communications Act of 1934, relating to Federal grants for the construction of television broadcasting facilities to be used for educational purposes;

(5) under part B of title II and title III of the Manpower Development and Training Act of 1962 which the Director of the Office of Management and Budget determines relate to institutional manpower training; and

(6) under the Drug Abuse Education Act of 1970.

(b) There are hereby transferred to the Secretary all functions of the Director of the Office of Economic Opportunity—

(1) under sections 222(a)(1) and (2) of the Economic Opportunity Act of 1964 relating to the Project Headstart and Follow Through programs; and

(2) under part A of title I of the Economic Opportunity Act of 1964 relating to the Job Corps.

(c) There are hereby transferred to the Secretary all functions of the Secretary of Defense with respect to the operation of schools for dependents of members of the Armed Forces.

(d) There are hereby transferred to the Secretary all functions of the Secretary of the Interior with respect to the operation of schools for Indian children being administered by him through the Bureau of Indian Affairs.

(e) There are hereby transferred to the Secretary all functions of the Secretary of Agriculture—

(1) under the National School Lunch Act;

(2) with respect to the operation of the Graduate School, United States Department of Agriculture.

(f) There are hereby transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing.

(g) There are hereby transferred to the Secretary all functions of the Secretary of Labor under title III of the Manpower Development and Training Act of 1962 which the Director of the Office of Management and Budget determines relate to institutional manpower training.

(h) There are hereby transferred to the Secretary all functions of the National Science Foundation which the Director of the Office of Management and Budget determines relate to instructional personnel development programs, instructional program development, and programs in computer innovations designed for use in education.

REDESIGNATION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 8. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) All laws, orders, regulations, and other matters relating to the Department of Health, Education, and Welfare or to the Secretary of Health, Education, and Welfare shall, insofar as they are not inconsistent with the provisions of this Act, be deemed to relate to the Department of Health and Welfare or to the Secretary of Health and Welfare.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 9. (a) There is hereby established a "Federal Interagency Committee on Education".

(b) The Committee shall study and make such recommendations as may be necessary to assure effective coordination of Federal programs affecting education, including—

(1) development of Federal programs in accordance with the educational goals and policies of the Nation;

(2) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;

(3) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(4) adequate procedures for the availability of information on educational matters requested by the Secretary; and

(5) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.

(c) The Committee shall be composed of the Secretary, who shall be the Chairman, and one appropriate representative of each of the following agencies: The Department of State, the Department of Defense, the Department of Agriculture, the Department of Labor, the Department of Health and Welfare, the National Science Foundation, the Atomic Energy Commission, the National Aeronautics and Space Administration, the National Endowment for the Arts and the National Endowment for the Humanities. Other members may be added by Executive order of the President as he determines may be necessary.

(d) The Chairman may invite Federal agencies in addition to the agencies which

are represented on the Committee under the provisions of subsection (c) of this section to designate representatives to participate in meetings of the Committee on matters of substantial interest to such agencies which are to be considered by the Committee.

(e) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Executive Director of the Domestic Council, and the Director of the Office of Science and Technology may each designate a member of his staff to attend meetings of the Committee as observers.

(f) Each Federal agency which is represented on the Committee under the provisions of subsection (c) of this section, shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945, (31 U.S.C. 691).

NATIONAL ADVISORY COMMISSION ON EDUCATION

SEC. 10. There is hereby established a National Advisory Commission on Education composed of fifteen members appointed by the President, by and with the advice and consent of the Senate from among individuals—

(1) who are familiar with the educational needs and goals of the United States,

(2) who have competence in assessing the progress of educational agencies, institutions, and organizations in meeting those needs and achieving those goals,

(3) who are familiar with the administration of State and local educational agencies and of institutions of higher education, and

(4) who are representative of the mass media, industry, and the general public.

Members shall be appointed for terms of three years, except that (1) in the case of initial members, as designated by the President, five members shall be appointed for terms of one year, five members shall be appointed for terms of two years, and five members shall be appointed for terms of three years, and (2) any member appointed to fill a vacancy shall serve the remainder of the term for which his predecessor was appointed.

(b) The National Commission shall—

(1) review the administration of, general regulations for, and operation of Federal education programs;

(2) advise the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the renewal of appropriate agencies, institutions, organizations of the Nation in order to meet those needs and achieve those goals;

(3) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(4) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of Federal education programs;

(5) consult with Federal, State, and local and other educating agencies, institutions, and organizations with respect to assessing education in the United States and the improvement of the quality of education, including—

(A) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(B) determinations of priorities among unmet needs and national goals; and

(C) specific means of improving the quality and effectiveness of teaching, curriculums, and educational media and of raising standards of scholarship and levels of achievement;

(6) conduct national conferences on the assessment, improvement, and renewal of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other education-related organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education;

(7) conduct, and report on, comparative studies and evaluations of education systems in foreign countries; and

(8) advise and assist in the coordination of all Federal education advisory committees, councils or commissions.

(c) The National Commission shall make an annual report, and such other reports as it deems appropriate, to the President and to the Congress, concerning its findings, recommendations, and activities.

(d) In carrying out its responsibilities under this section, the National Commission shall take, together with the Secretary, whatever action is necessary to carry out section 448 of the General Education Provisions Act, to devise a manageable and effective advisory structure for the Department. The National Commission shall advise the Secretary on the number of advisory bodies that are necessary and the manner in which such bodies relate to one another. The National Commission shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, the National Advisory Council on Educational Research and Development and such other advisory councils and committees as may be appropriate to carry out its functions under this subsection. All Federal agencies are directed to cooperate with the National Commission in carrying out its functions under this subsection.

(e) The National Commission is authorized to engage such technical assistance as may be required to carry out its functions and the Secretary shall, in addition, make available to the National Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department as the National Commission may require to carry out its functions.

(f) Members of the National Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the National Commission or while otherwise engaged in the business of the National Commission, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for grade GS–18 under section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the National Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) The President shall appoint the National Commission not later than thirty days after the date of enactment of this Act

POWERS AND DUTIES OF THE SECRETARY

SEC. 11. (a) The Secretary shall be responsible for the exercise of all functions of the Department, and shall have authority to direct and supervise all personnel and activities. thereof.

(b)(1) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions, as may be necessary to carry out the purposes and functions of this Act.

(2) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(c) The Secretary may promulgate such rules and regulations as may be necessary to carry out the functions vested in him or in the Department, and he may delegate authority for the performance of any such function to any officer or employee under his direction and supervision.

(d) The Secretary shall cause a seal of office to be made for the Department, of such design as the President shall approve, and judicial notice shall be taken thereof.

(e) The Secretary shall, as soon as practicable after the end of the fiscal year, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall also contain objective data on: enrollments; expenditures; numbers of teachers and other categories of professional and related personnel; numbers of professionals who lack full qualifications; needs for classrooms and other construction; special needs of critical concern such as the disadvantaged, rural and urban education, and progress made toward the continuing renewal of education; the results and outcomes of education and schooling; budget projections for five years based on actual or anticipated appropriations for the fiscal year in which the annual report is issued; the advisory structure of the Department, including the names and composition of advisory committees and councils and the relationships the committees and councils bear to one another; and similar data.

TRANSFERRED PERSONNEL

SEC. 12. (a) Each officer or employee of the United States or any department or agency thereof who is transferred under this Act to the Department of Education shall be deemed, effective as of the date of such transfer, to be an officer or employee of the Department. No reappointment of any such officer or employee shall be required because of his transfer to that department.

(b) The transfer of personnel pursuant to this Act be without reduction in classification or compensation for one year after such transfer, except that the Secretary shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Department under this section.

TECHNICAL AMENDMENTS

SEC. 13. (a) Section 19(d)(1) of title 3, United States Code, is hereby amended by inserting before the period at the end thereof a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by inserting at the end thereof the following:

"The Department of Education".

(c) Subchapter II of chapter 53 of title 5, United States Code (relating to executive schedule pay rates), is amended as follows:

(1) Section 5312 is amended by adding at the end thereof the following:

"(13 Secretary of Education,".

(2) Section 5314 is amended by adding at the end thereof the following:

"(60) Under Secretary of Education."

(3) Section 5315 is amended by adding at the end thereof the following:

"(98) General Counsel, Department of Education."

"(99) Assistant Secretaries of Education (6)."

"(100) Director, National Institute of Education, Department of Education."

(4) Section 5316 is amended by adding at the end thereof the following new paragraph:

"(132) Deputy Director, National Institute of Education, Department of Education."

(d)(1) Section 405(d)(1) General Education Provision Act is amended by striking out the following: "shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and",

(2)(A) Section 405(d)(2) General Educational Provision Act is amended by striking out the following: "shall be compensated at the rate provided for grade 18 of the General

Schedule set forth in section 5332 of title 5, United States Code, and;".

(B) Section 405(d)(2) of such Act is amended by striking the last sentence thereof.

SAVINGS PROVISIONS

SEC. 14. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any agency or office, or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this Act takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part thereof, is transferred to the Secretary, or

(B) any function of such agency, office, or part thereof, or officer is transferred to the Secretary,

then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the department or officer in which such function is vested pursuant to this Act.

(e) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

(f) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and his actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

AMENDMENT TO THE COMMUNICATIONS ACT OF 1934

SEC. 15. Section 396(c)(1) of the Communications Act of 1934 is amended by inserting after the first sentence thereof the following sentence: "The Secretary of Education shall be an ex officio member of the Board.".

CODIFICATION

SEC. 16. The Secretary is directed to submit to the Congress within two years from the effective date of this Act, a proposed codification of all laws which contain functions transferred to the Secretary by this Act.

FEDERAL CONTROL PROHIBITED

SEC. 17. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any local or State educational agency, institution, or school system.

DEFINITIONS

SEC. 18 As used in this Act, the term—

(1) "Committee" means the Interagency Committee on Education;

(2) "Commissioner" means the Commissioner of Education.

(3) "Education Division" means Division of Education as established in section 401 of General Educational Provision Act including the Office of Education and the National Institute of Education and any constituent agencies of such division.

(4) "Director" means the Director of the National Institute of Education;

(5) "Department" means the Department of Education;

(6) "education" means that process by which individuals and groups develop or acquire skills, competencies, attitudes, values, and new understandings. Formally or informally, education may be undertaken in, offered by, or received from preschool elementary, secondary, and postsecondary institutions as well as other kinds of institutions, agencies, organizations, and individuals, including but not limited to the home and family, the mass media, industry, and the military;

(7) "educational research" includes research, planning, surveys, evaluations, investigations, experiments (including experimental schools), development, demonstration and dissemination in the field of education;

(8) "function" includes powers and duties;

(9) "National Commission" means the National Advisory Commission on Education;

(10) "Secretary" means the Secretary of the Department of Education;

(11) "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and

(12) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 19. (a) This Act, other than this section, shall take effect ninety days after the enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a), any of the officers provided for in subsections (a), (b), and (c) of section 4 may be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act.

By Mr. THURMOND:

S. 1061. A bill to amend the Consolidated Farm and Rural Development Act to modify the provisions relating to emergency loans, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. THURMOND. Mr. President, today I am introducing legislation to amend the Consolidated Farm and Rural Development Act.

First, this bill is intended to reinstate the emergency loan program of the Farmers Home Administration of the Department of Agriculture. Second, it is intended to modify existing operating loan provisions by defining a family farm.

The emergency loan program, which the administration terminated in December, is of vital importance to our rural areas when they are faced with disaster.

In an effort to counteract inflation and to hold down federal spending, the administration felt that it was necessary to dispense with the emergency loan program, because of the heavily subsidized interest rate of 1 percent and the $5,000 forgiveness feature. It is my belief that the legislation I am introducing today will be in line with the President's efforts to hold down spending and counteract inflation. At the same time, it will restore the emergency loan program and benefit our farmers.

Mr. President, I am proposing three changes in the legislation involving emergency loans.

First, it is my belief that emergency loans should be made when actual emer-

gencies occur. I propose that farmers be eligible for emergency loans when they have a crop loss of one-third or more. Further, livestock or poultry farmers would be eligible for assistance if they have lost one-third of their livestock or poultry.

Second, the provisions for up to $5,000 forgiveness of every emergency loan would be eliminated. My bill will provide for emergency credit by means of a repayable loan, with no forgiveness or cancellation on the part of the Government.

Third, the interest rates on such loans would be set at 5 percent per year. I believe this provision will bring the interest rate on Farmers Home Administration loans more in line with the market rate.

Mr. President, I believe that these three changes will make the law compatible with a sound fiscal policy. Poultry and livestock farmers should be guaranteed the rights of crop farmers and fish farmers by being specifically mentioned in the legislation, and my bill will give them this assurance.

This legislation is intended to correct one further problem found in the regular operating type loans administered by the Farmers Home Administration.

To obtain such a loan, the farmer need not depend upon a disaster designation. Rather, these loans are available in the normal course of business, since the President did not terminate these loans when he announced the termination of the emergency loan program.

The basic problem involved in qualifying for this loan, however, is the fact a farmer must be a family farmer in order to participate. The regulations have limited family farms to one full-time employee plus seasonal labor.

Mr. President, my proposed change would eliminate this definition of a family farmer and provide that a family farm be defined as one which produces agricultural commodities for sale in sufficent quantities so that it is recognized as a farm rather than a rural residence. The operator and his immediate family would provide the management and a substantial part of the labor and live on the farm, or nearby, so that they could properly manage the farming operation.

It is unjustifiable to deny a farmer assistance solely, because he may employ two, three, or four full-time employees, if the farmer himself still provides a substantial part of the labor and lives on the farm or nearby.

Mr. President, many small family type farmers employ more than one full-time employee plus seasonal labor. Such an arbitrary definition, disqualifies many small farmers who deserve consideration for an operating loan from the Farmers Home Administration.

Two recent ice and snow storms in South Carolina point out the inequity in the present law. When the Secretary of Agriculture does not declare a disaster area, no emergency disaster loans can be made available for farmers. Our farmers must resort to the regular operating and housing loans from the Farmers Home Administration.

Housing loans are available when our farmers have their housing structures damaged. Some farmers may suffer damage even though their buildings are not structurally damaged, and these farmers need operating loans. A good example is a poultry farmer who experiences a loss of electricity, which affects his poultry production. Often, however, many small farmers find these loans unavailable because they employ two, three, or four full-time employees.

Mr. President, the recent snow disaster in South Carolina, with attendant financial disaster for many of our farmers, has impressed upon me the great need for the emergency loan program of the Farmers Home Administration. Further, I am convinced that operating loans must not be denied simply because a farmer employs more than one full-time employee.

If we make the changes I have suggested, the emergency loan program can be administered in line with a balanced Federal budget. I believe the President will implement this legislation for the benefit of our people. Setting a higher interest rate, providing for one-third crop loss in order to qualify, and eliminating the forgiveness feature, represent a responsible approach to the emergency loan program.

This legislation offers no handouts to our farmers, and I am convinced they desire none. Rather, this bill offers a realistic way to reinstate the emergency loan program. I ask my colleagues to give this approach their careful consideration.

Mr. President, I request that this bill be appropriately referred and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

S. 1061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 (b)) is amended by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: "and provided that a farmer, rancher, or oyster planter shall have lost at least one-third of his crop, livestock, poultry, or oyster beds, as the case may be, in order to be eligible for assistance under this subtitle."

SEC. 2. Section 324 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964) is amended by striking out "3 per centum" and inserting in lieu thereof "5 per centum".

SEC. 3. Section 328 of the Consolidated Farm and Rural Development Act as added by section 5 of Public Law 92-385, is hereby repealed.

SEC. 4. Section 232 of the Disaster Relief Act of 1970, Public Law 91-606, is hereby repealed.

SEC. 5. (a) Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended by (1) inserting "livestock farming, or poultry farming" immediately after "fish farming" in clause (1); and (2) inserting "livestock farming, and poultry farming" immediately after "fish farming" in clause (2).

(b) Section 343 of such Act is further amended by redesignating clauses (3), (4), and (5) as clauses (4), (5), and (6); and by inserting after clause (2) a new clause (3) as follows: "(3) the term 'family farm' shall be deemed to include any farm that produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence, and the operator of such farm and his immediate family provide the management and a substantial part of the labor and live on the farm, or nearby, so that they can properly manage the farming operation."

By Mr. SCHWEIKER:

S. 1062. A bill to amend the Flammable Fabrics Act to provide for a certification procedure, and for other purposes. Referred to the Committee on Commerce.

FLAMMABLE FABRICS ACT AMENDMENTS OF 1973

Mr. SCHWEIKER. Mr. President, I introduce a bill to amend the Flammable Fabrics Act to provide for a certification procedure, and for other purposes.

Mr. President, the Flammable Fabrics Act Amendments of 1973 are designed to strengthen the existing Flammable Fabrics Act of speeding up the standard-setting procedure of the Department of Commerce and by giving the Federal Trade Commission new enforcement power.

This bill is similar to S. 3491, which I introduced on April 12, 1972.

The original Flammable Fabrics Act was first enacted into law 1953 after a series of tragic deaths in the late 1940's and early fifties which resulted mainly from burns received from children's rayon pile cowboy chaps and brushed rayon "torch" sweaters. At that time, the legislation applied only to wearing apparel.

The test of flammability was set by the statute. In 1954, in reaction to the rigid standard in the statute, an amendment was added to allow the marketing of apparel made from sheer fabrics like tulle and organdy.

Regretfully, the scope of the statute was too limited and the legislative standard was impractical.

Additional amendments were added in 1967 to apply the act to all articles of wearing apparel and to interior furnishings used in homes, offices, and other places of assembly or accommodation. The 1967 amendments did create a new mechanism for the setting of better flammability standards and the hope was that enforcement of the legislation would improve.

In the meantime, large numbers of serious injuries and deaths are still occurring from flammable fabrics. From 3,000 to 5,000 deaths a year occur. Nonfatal injuries amount to 150,000 to 250,000 per year. The financial loss is estimated to be over one-fourth billion dollars per year. Obviously, the pain and suffering caused to victims of these tragic burns cannot be estimated.

Our senior citizens, persons of 65 years or older, represent a large group of burn victims. Senior citizens account for about 10 percent of our country's total population, but they include 20 percent of all burned clothing cases.

Amazingly, the President's National Commission on Fire Prevention and Control has found that many firefighters use

coats made of materials which the National Bureau of Standards has found to be unacceptable under the flammability standards recently issued for children's sleepwear.

On July 29, 1971, a standard was issued for children's sleepwear. Under the current procedures, which would be streamlined by my legislation, the children's sleepwear standard did not become effective until July 29, 1972. Even then, cautionary labeling was permitted for another year until July 29, 1973. Thus, 9 years will elapse between the initial publishing of the standard and its final applicability.

One of the most serious problems has been the built-in delays in the standards-setting procedure. Under section 4(a) of the act, "Proceedings for the determination of an appropriate flammability standard" are to be instituted only after the Secretary of Commerce finds "that a new or amended flammability standard—may be needed."

The procedural rules set up by the Secretary of Commerce involve two separate proceedings. An initial proceeding is for the development of an appropriate flammability standard. Later, after the conclusion of the initial proceeding, the Secretary either withdraws his finding that a new flammability standard may be needed or institutes a second "rulemaking" proceeding for the actual determination of the flammability standard.

These procedures are not required by the statute. My legislation will make it clear that only a single proceeding for the development and determination of a standard will be instituted by the responsible agency.

Under the new Consumer Product Safety Act which became law on October 27, 1972, the functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act are being transferred to the Consumer Product Safety Commission. In addition, the functions of the FTC under the Federal Trade Commission Act regarding flammable fabrics, are transferred to the Commission.

In addition to the other problems I have mentioned, the Federal Trade Commission which has been charged with the responsibility of enforcing the legislation, has been seriously hampered by the statutory language. In June 1970, then-Chairman Caspar W. Weinberger, of the Federal Trade Commission, testified before the Subcommittee on Consumers of the Senate Committee on Commerce and recommended amendments to the existing legislation to improve the ability of the Commission to enforce the act. Although amendments incorporating Mr. Weinberger's suggestions have previously been before Congress, no changes have been made and I am incorporating these suggestions into the Flammable Fabrics. Act Amendments of 1973 in the hope that they will be enacted into law soon.

Here is what the Flammable Fabrics Act Amendments of 1973 would do:

First, it would require the Secretary of Commerce to submit a report to the Congress within 90 days setting forth the specific types of fabrics for which new flammability standards should be adopted. The Secretary would also be required to submit a schedule describing when he intends to institute proceedings for the determination of such new standards. A specific section of the report will be required regarding the need for new standards covering senior citizens.

Second, it would streamline the standard-setting procedure by making clear that only one administrative proceeding for the development and determination of an appropriate flammability standard should be held by the responsible agency. Thus, the dual proceedings which are not now required by the statute would be done away with.

Third, my bill would speed up the standard-setting procedure by making new flammable fabrics standards effective immediately, not 1 year after the standard becomes final. At the present time, there is a grace period permitted by the statute which prevents new flammability standards from going into effect for 12 months following publication in the Federal Register.

In order to prevent an inequitable application of a new standard, however, my legislation would permit firms which can affirmatively show that they cannot comply with a new standard to obtain an exemption for 1 year if a cautionary label is included on the product. That label must indicate, first, that the fabric does not meet the new standard and therefore is flammable; second, that the fabric should not be worn near sources of fire; and third, the particular standard from which the fabric has been exempted. Thus, if the standard simply could not be met, a 1-year delay with a cautionary label would be permitted.

Fourth, this bill calls for a new certifying procedure. No products could be manufactured for sale or sold unless the product is certified by the manufacturer or the importer to meet the requirements of the applicable standard.

Violations of the certification provisions will be unlawful and will constitute an unfair method of competition and an unfair and deceptive act or practice in Commerce under the Federal Trade Commission Act. The Federal Trade Commission, and eventually the Consumer Product Safety Commission would be charged with enforcement of the certification provisions.

Fifth, the legislation amend section 7 of the Flammable Fabrics Act which provides criminal sanctions for willful violations of the act. In accordance with suggestions made by the FTC, violations of the act "with knowledge," but not necessarily with "willfulness," will constitute felonies.

Sixth, the legislation specifically requires that within 6 months after the date of enactment, new standards be issued for children's sleepwear covering children up to the age of 12. Currently proposed standards only cover children up to 6 years old, and this should be broadened.

Last year, I was pleased to join with Senator MAGNUSON in proposing an amendment to H.R. 5066, an act authorizing appropriations to carry out the Flammable Fabrics Act. Our amendment, which passed the Senate, provided that the children's sleepwear standard which now applies to sizes zero through 6X be extended to apply to all sleepwear up to size 14. This would have protected children up to about age 12. Regrettably, our amendment was deleted in the conference version of H.R. 5066.

According to Senator Moss' statement on the conference report, the House conferees argued that the Consumer Product Safety Commission could more adequately safeguard the interests of consumers without being required to meet a deadline of July 1, 1973. The Commission reportedly would delay the effective date of the new standard beyond July 1, 1973, only if it were "persuaded that the effective date presented a technically impossible situation for the textile industry."

We are now nearing the end of February, and no new standard is in sight. It is time for Congress to take the lead again.

My bill also provides for civil penalties which will give the enforcing agency an immediate sanction and will permit the Commission to go after violators where criminal sanctions are not appropriate.

Mr. President, we have had the Flammable Fabrics Act on the books since 1953 and when you review the progress we have made in 20 years, it becomes clear that we simply have not done enough to meet the problem. I am hopeful that the Senate will act quickly on this much-needed legislation.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my remarks.

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

S. 1062

A bill to amend the Flammable Fabrics Act to provide for a certification procedure, and for other purposes

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 "Flammable Fabrics Act Amendments of 1973".

ADMINISTRATIVE PROCEEDING

SEC. 2. Section 4(a) of the Flammable Fabrics Act, as amended (15 U.S.C. 1193(a)), is amended by striking "proceedings for the determination" and inserting in lieu thereof "a proceeding for the development and determination."

EFFECTIVE DATE OF STANDARDS

SEC. 3. The second sentence of section 4(b) of the Flammable Fabrics Act, as amended (15 U.S.C. 1193(b)), is amended to read as follows: "Each such standard, regulation, or amendment thereto, shall become effective on the date on which such standard, regulation, or amendment is promulgated."

EXEMPTION FROM STANDARDS

SEC. 4. Section 4(b) of the Flammable Fabrics Act, as amended (15 U.S.C. 1193(b)), is amended by adding at the end thereof the following: "Upon a showing by any person that such person is subject to, but cannot comply with, any standard, regulation, or amendment with respect to any fabric, related material, or product, the Secretary may exempt that fabric, related material, or product from such standard, regulation, or

amendment, for a period not to exceed one year, except that any fabric, related material, or product so exempted shall be clearly and conspicuously labeled, in accordance with regulations prescribed by the Commission, to indicate—

"(1) that such fabric, related material, or product does not meet with a standard, and therefore is flammable;

"(2) that such fabric, related material, or product should not be worn near sources of fire; and

(3) the standard from which such fabric, related material, or product has been exempted."

CERTIFICATION

SEC. 5. (a) Section 3 of the Flammable Fabrics Act, as amended (15 U.S.C. 1192), is amended by adding at the end thereof the following new subsection:

"(c)(1) The manufacture for sale, the sale, or offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported, in commerce, or the sale or delivery after a sale or shipment in commerce, of any product, fabric, or related material, or any product made of fabric or related material, with respect to which an applicable standard of flammability has been issued or amended under the provisions of section 4 of this Act and which has not been certified by the manufacturer or importer thereof to meet the requirements of the applicable standards or other regulations issued or amended under the provisions of section 4 of this Act, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act. For the purpose of this subsection, certification shall be based upon a reasonable testing program conducted by the manufacturer or importer which has been approved by the Secretary of Commerce in accordance with procedures established in section 4 of this Act.

"(2) This subsection and the penalties provided in section 7 of this Act, insofar as they would prohibit sale of a product without certification based upon an approved testing program, shall not apply to any product for which an application for approval of a testing program has been timely filed with the Secretary of Commerce until thirty days after such application has been finally acted upon by the Secretary of Commerce, or in the case of a rule prescribing a testing program under section 4(g)(6) of this Act, until thirty days after such rules have become effective.

"(3) In approving a testing program under section 4(g) of this Act, the Secretary of Commerce may for good cause shown allow an applicant or person required to perform such prescribed testing an additional period of not more than six months within which to implement the approved or prescribed testing program. During such period applicability of the certification requirement of this section and the penalty provisions of section 7 of this Act as they relate to the requirement of certification shall be stayed.

"(4) Neither this subsection nor the penalties provided in section 7, insofar as they relate to the requirement of certification, shall apply to any product, fabric, or related material, or any product made of fabric or related material which has been exempted from this subsection by rule or regulation issued by the Commission pursuant to the provisions of section 5(c) of this Act."

(b) Section 4 of such Act, as amended (15 U.S.C. 1193), is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary of Commerce may approve any testing program upon application by any manufacturer or importer for the purpose of the certification requirements of section 3(c) of this Act (A) if such application is submitted in a proper form under regulations established by the Secretary of Commerce and published in the Federal Register, and (B) if the testing program is reasonably designed to prevent or minimize the manufacture and introduction in commerce of any product, fabric, or related material, or any product made of fabric or related material, which is not in compliance with an applicable standard of flammability established pursuant to this section.

"(2) Unless the Secretary of Commerce has determined to proceed under paragraph (6) of this subsection, then upon promulgation of any new or amended standard of flammability under the provisions of this section, the Secretary of Commerce shall give notice that any person required to make a certification under section 3(c) of this Act and desiring approval of a testing program must submit an application for approval for such testing program within six months after the date of promulgation of such standard or amendment.

"(3) All applications for approval of testing programs shall be approved or denied within a reasonable time. The Secretary of Commerce may consolidate similar applications for joint consideration and joint approval or denial.

"(4) A denial of an application for approval of a testing program shall set forth with particularity the reasons for denial.

"(5) Any person who will be adversely affected by such approval or denial may seek judicial review in accordance with procedures set forth in subsection (e) of this section.

"(6) In lieu of approving or denying applications for approval of testing programs, the Secretary of Commerce may promulgate rules pescribing the testing program to be used in the manufacture of any product, fabric, or related material for which a standard of flammability has been promulgated. Rules prescribing a testing program for fabrics, products, or related materials for which a standard of flammability has been promulgated prior to the effective date of this subsection shall become effective within one year from the effective date of this subsection, or six months after the date of promulgation of such rules, whichever is later. Otherwise, rules prescribing a testing program shall become effective on the effective date of any standard of flammability promulgated, or six months after the date of promulgation of such rules, whichever is later."

(c) Section 7 of such Act (15 U.S.C. 1196 is amended to read as follows:

"PENALTIES

"SEC. 7. (a) Whoever performs any act in violation of section 3 or section 8(b) of this Act with knowledge that such act is in violation of such section shall be guilty of a felony and upon conviction shall be fined not more than $10,000, imprisoned for not more than three years, or both, in addition to any other penalties, civil or criminal, imposed for such violation.

"(b) Whoever performs any act in violation of section 3 or section 8(b) of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not more than $1,000, imprisoned for not more than one year, or both, in addition to any other penalties, civil or criminal, imposed for such violation, except that no person shall be held in violation of this subsection if such person establishes that he exercised due care in the application of an approved testing program required under section 3(c) of this Act and that such application disclosed that the product, fabric, or related material was in conformity with applicable standards of flammability established pursuant to section 4 of this Act.

"(c)(1) Whoever performs any act in violation of section 3 or section 8(b) of this Act, in addition to any other penalties imposed for such violation, shall be subject to a civil penalty imposed by the Commission of not to exceed $10,000 for each such violation, except that no person shall be held in violation of this subsection if such person establishes that he exercised due care in the application of an approved testing program required under section 3(c) of this Act and that such application disclosed that the product, fabric, or related material was in conformity with applicable standards of flammability established pursuant to section 4 of this Act.

"(2) Upon failure of the offending party to pay the civil penalty, the Commission may request the Attorney General to commence an action in a court of the United States for such relief as may be appropriate. Prior to making such a request, the Commission may compromise such civil penalty.

"(d) No person shall be subject to prosecution or penalty under this section for a violation of section 3 of this Act if such person establishes that he (1) has received in good faith a fabric, related material, or product certified as required by section 3(c) of this Act signed by and containing the name and address of the person by whom the product, fabric, or related material was certified, and (2) has not, by further processing, affected the flammability of the fabric, related material, or product covered by the certification which he received.

"(e) Notwithstanding the provisions of subsection (d) of this section and section 8 of this Act, an importer who chooses to rely on the certification of a foreign manufacturer under section 3(c) of this Act shall be liable as a manufacturer under this section for any violation of section 3 of this Act."

(d)(1) The first sentence of section 8(a) of such Act, as amended (15 U.S.C. 1197(a)), is amended by inserting after the word "prosecution" the words "or penalty".

(2) Section 8(b) of such Act, as amended (15 U.S.C. 1197(b)), is amended by inserting after the word "guaranty", wherever it appears, the phrase "or certification required under section 3(c) of this Act".

REPORT TO THE CONGRESS

SEC. 6. (a) Not later than ninety days after the date of enactment of this Act, the Consumer Product Safety Commission shall submit a report to the Congress setting forth—

(1) all types of fabrics or related materials presently available to the public;

(2) the specific fabrics or related materials for which new flammability standards should be adopted to protect the public against unreasonable risk of the occurrence of fire leading to death, personal injury, or significant property damage, and the Commission's estimate of (A) the number of persons who may be affected by such occurrences, and (B) the number of severity of such occurrences;

(3) a schedule of the proposed dates for the institution of proceedings by the Commission for the determination of such new flammability standards, taking into account its findings under clause (2) of this subsection; and

(4) a statement relating to the need for standards to protect persons over sixty-five years of age.

CHILDREN'S SLEEPWEAR

SEC. 7. Section 3 of the Flammable Fabrics Act, as amended (15 U.S.C. 1193) is amended by adding at the end thereof the following new subsection:

"(g) Not later than six months after the date of enactment of the Flammable Fabrics Act Amendments of 1973 the Secretary of Commerce shall promulgate standards under this Act for children's sleepwear, including any product of wearing apparel up to and including size 12X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping."

CONSUMER PRODUCT SAFETY COMMISSION

Sec. 8. Any function of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, or of the Federal Trade Commission under the amendments made by this Act to the Flammable Fabrics Act shall be transferred to the Consumer Product Safety Commission in acordance with section 30 of the Consumer Product Safety Act on the later of—

(1) the date of enactment of this Act, or

(2) the date on which the functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act are transferred to the Consumer Product Safety Commission under such section 30.

By Mr. HUMPHREY:

S. 1063. A bill to establish a program of nutrition education for children as a part of the national school lunch and child nutrition programs and to amend the National School Lunch and Child Nutrition Acts for purposes related to strengthening the existing child nutrition programs. Referred to the Committee on Agriculture and Forestry.

CHILD NUTRITION ACT OF 1973

Mr. HUMPHREY. Mr. President, I am introducing today legislation which is essential to the continuing effort to improve the nutritional health of the Nation's schoolchildren. It will authorize the first serious effort to begin a nutrition education program in the schoolroom which is tied directly to the breakfast and lunches served in the cafeteria.

The legislation also authorizes an increase in the reimbursement provided by the Federal Government for each lunch served by the local school system to children in school. Presently the Congress guarantees a payment of 8 cents for every lunch served under the national school lunch program and a payment of 40 cents for each lunch served without cost to a needy child. Inflation, the inability of the USDA to keep its promise of delivering surplus commodities, all these factors have raised the cost of serving a school lunch by nearly 10 percent since the start of the school year.

Only this month, the USDA warned us that food costs in 1973 would increase by more than 6.5 percent. Unless these increases are defrayed by the Federal Government schools will be forced to increase lunch prices—if they already have not—and fewer children will be able to participate.

That is not the reason the Congress passed the National School Lunch Act. We want to serve nutritious meals to more children, rather than fewer.

By raising the reimbursement rate on all lunches from 8 to 12 cents, we can help local school districts maintain meal service at a moderate, reasonable cost. In addition, by increasing the reimbursement rate for meals served to needy children, we will enable school districts to recover the actual cost of serving a free lunch.

These are the immediate actions which are necessary if the program is going to keep from slipping back from its present position. But marking time is not enough, particularly when fewer than half of the Nation's schoolchildren are being served by this program each day.

That is why my bill looks ahead to developing a real nutrition education program in our schools. We have talked about nutrition education for 25 years, but little has been done beyond this rhetorical nod at the need. Children who do not understand the significance of nutrition to their health, physical appearance, and their ability to do well in school can hardly be blamed for reaching for a snack. If they understand the consequences of their nutritional choices, fewer will snack and more will select their diet with care.

I am confident that an effective nutrition education program will be a key factor in pulling the lunch program from its present doldrums. It is sad to note that although the Congress has authorized substantially greater funds for school lunch, the number of children served has grown very little. There is little vision in the USDA, and a great deal of very bad administration. I can only hope the incentives I am proposing in this legislation will overcome the incapacity for improvement, and will end the aversion to actions which will bring the program to more schools and better nutrition to more children.

That is why this legislation establishes the target date of June 30, 1975, when every school district with a food service program in some schools must extend lunches to all schools. Similarly, all schools where needy children are enrolled will be required to provide food service under the National School Lunch Act by the time school starts in September 1975.

Adequate funding, nutrition education, target dates far enough ahead to allow adequate planning to expand the program, all these are positive instruments to create more effective nutrition programs and deliver vital services to our children in their school.

Mr. President, the bill that I am introducing is identical to H.R. 4974, introduced yesterday in the House by the distinguished chairman of the House Education and Labor Committee, Congressman CARL D. PERKINS, of Kentucky.

It is the hope of Congressman PERKINS, myself and others that Congress will be able to act upon this legislation early enough this year so that our Nation's schools will be able to adequately plan for next year's school year which will begin this fall.

Mr. President, I ask unanimous consent that my bill be printed at this point in the RECORD and I also wish to invite my other colleagues here in the Senate to join me in cosponsoring this important piece of legislation.

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

S. 1063

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 "Child Nutrition Education Act of 1973".

SEC. 2. (a) The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized to formulate the basic elements of a nutrition education program for children to be extended on a voluntary basis through State educational agencies to schools and service institutions as a part of the school lunch and child nutrition programs. Such a program shall include, but shall not be limited to, the preparation of course outlines, based on the advice of experts in the field of child nutrition, classroom teaching aids, visual materials, the training of school food service personnel, and the training of teachers to conduct courses in nutrition utilizing the school food service program as a laboratory. In developing such a program the Secretary shall consult with the Office of Education of the Department of Health, Education, and Welfare and with recognized authorities in the field of human nutrition and nutrition education.

(b) For the fiscal year 1974, the Secretary is authorized to use not to exceed $2,000,000 out of funds made available for the conduct of school lunch and child nutrition programs for the purpose of developing a nutrition education program as outlined under (a) above. From the funds made available under this subsection, the Secretary shall advance to each State educational agency an amount not to exceed $25,000 for the fiscal year 1974. The amounts so advanced shall be for the purpose of the employment of a nutrition education specialist in each State educational agency in order to provide for the planning and development of a nutrition education program for the children in each State.

(c) For the fiscal year 1975 grants to the States for the conduct of nutrition education programs for children shall be based on a rate of 50 cents for each child enrolled in schools or service institutions within the State and, for each fiscal year thereafter, grants will be based on rate of $1 for each child so enrolled. Enrollment data so used will be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.

(d) The funds made available under subsection (c) may be used for the employment of personnel including supporting services, in the State educational agencies to coordinate and promote the conduct of nutrition education programs in participating school districts, and for other puropses related to such programs.

There is hereby authorized to be appropriated the funds necessary to carry out the purpose of this section.

(e) A nutrition education advisory council shall be established in each State to provide guidance and assistance in formulating the nutrition education program to be conducted in the State under the authority of this section. The members of the council shall be appointed by the chief state school officer of each State, and approved by the State educational agency and shall be professionals in the fields of nutrition, education, health, and welfare.

STATE ADMINISTRATIVE EXPENSES

SEC. 3. Section 7 of the Child Nutrition Act of 1966 is amended by adding at the end thereof the following:

"For each fiscal year beginning with the fiscal year 1974, State educational agencies are authorized to use an amount, not to exceed 2 per centum of aggregated payments made to such agencies by the Secretary under the National School Lunch Act and the Child Nutrition Act of 1966 in the preceding fiscal year, to assist in the administration and supervision of the programs authorized under such Acts: *Provided,* That not less than 75 per centum of any funds used under this authority shall be directed to the employment of field nutrition supervisors and auditors who have a certificate of training in the subject areas or the equivalent in field supervisory or auditing experience; *Provided further,* That the funds expended under this section shall be used to supplement the existing level of administrative support services and expenditures therefor for the child nutrition programs in each State."

SCHOOL BREAKFAST PROGRAMS

SEC. 4. (a) The first sentence of section 4(c) of the Child Nutrition Act of 1966 is amended to read as follows:

"Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program and for the purpose of subsection (d)."

(b) The second sentence of section 4(c) of the Child Nutrition Act of 1966 is deleted.

(c) Section 4(b) of the Child Nutrition Act of 1966 is amended by adding the following paragraphs at the end of such section:

"The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced-price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast. In cases of severe need, a payment of up to 45 cents may be made for breakfasts served to children qualifying for a free breakfast.

"For the fiscal years subsequent to the fiscal year beginning July 1, 1973, the breakfast payments specified in this subsection shall reflect changes in the cost of operating a school breakfast program under this Act by giving equal weight to changes in the wholesale prices of all foods and hourly wage rates for employees of eating places published by the Bureau of Labor Statistics of the Department of Labor."

NATIONAL ADVISORY COUNCIL

SEC. 5. Section 14 of the National School Lunch Act is amended as follows:

(1) In subsection (a) replace the word "thirteen" with the word "nineteen" and insert after the phrase "(or the equivalent thereof)", the first time it appears the following: "one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof); one member shall be a supervisor of a school lunch program in a school system in a rural area; two members shall be parents of school age children; two members shall be secondary school students participating in the school lunch program,";

(2) Subsection (b) is amended by striking out "nine" and inserting in lieu thereof "fifteen", and by adding the following to said subsection: "The new members to be appointed to the council as provided for by reason of the amendment to subsection (a) made by section 5 of the Child Nutrition Education Act of 1973, shall be appointed for terms of three years, except that the terms of the secondary students shall be two years."

(3) In subsection (e), delete the word "seven" and insert in lieu thereof the word "ten".

(4) Subsection (f) is amended by adding the following at the end of such subsection: "For the purpose of obtaining information incident to making the aforesaid recommendations, the council, by vote of its members present may request the appearance, at any of its meetings, of representatives from governmental or nongovernmental agencies or organizations concerned with the nutrition and welfare of children."

(5) Such section is amended by adding at the end thereof the following:

"(1) The Council shall continue in existence until terminated by Act of Congress enacted after the enactment of the Child Nutrition Education Act of 1973."

REGULATIONS

SEC. 6. The National School Lunch Act is amended by adding after section 15 the following new section:

"SEC. 16. Prior to the publication in the Federal Register of any proposed regulations to implement the provision of this Act or the Child Nutrition Act of 1966, the Secretary shall solicit the comments and recommendations of the National Advisory Council on Child Nutrion, and a representative group of State and local school food service administrators and selected lay citizens and shall establish a five-member group to work with the Department of Agriculture in the development of such regulations that reflect the comments of such groups."

REIMBURSEMENT

SEC. 7. (a) Section 4 of the National School Lunch Act is amended to delete the phrase "8 cents per lunch" as it appears in said section and substitute the phrase "10 cents per lunch. For the fiscal years subsequent to the fiscal year beginning July 1, 1973, the national average payment shall reflect changes in the cost of operating the school lunch program under this Act by giving equal weight to changes in the wholesale prices of all foods and hourly wage rates for employees of eating places published by the Bureau of Labor Statistics of the Department of Labor."

(b) In any fiscal year in which the national average payment is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, as provided for under section 8 of the National School Lunch Act, shall be increased by a like amount.

SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 8. Section 13 of the National School Lunch Act is amended by adding the following to subsection (d) of said section: ": *Provided, however,* That the Secretary may enter into agreement with State educational agencies for the administration of the program in situations where it is conducted under sponsorship of the local government. In such situations the Secretary shall reimburse participating service institutions through State educational agencies under agreement with the Secretary".

COMPETITIVE FOODS

SEC. 9. (a) Section 9(a) of the National School Lunch Act (nutritional and other program requirements) is amended by adding at the end thereof the following: "Additional foods which make a significant nutritional contribution may be offered for sale to children during the periods of food service conducted under programs authorized under this Act and the Child Nutrition Act of 1966 to the extent such offerings are necessary to meet nutritional needs of pupils in participating schools: *Provided, however,* That the sale of such additional foods shall be under the management and control of the food service department of the school and proceeds from such sales shall accrue to said department."

(b) the second sentence of Section 10 of the Child Nutrition Act of 1966 (42 USC 1779) is deleted.

SPECIAL ASSISTANCE FUNDS

SEC. 10. (a) Section 11 of the National School Lunch Act is amended by redesignating subsection (h) as subsection (c), and by striking out subsections (a), (b), (c), (d), (e), (f), and (g) and inserting in lieu thereof the following:

"(a) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special assistance payments in an amount to be determined in the following manner: multiplying the number of lunches (consisting of a combination of foods and meeting the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches. For fiscal years subsequent to the fiscal year beginning July 1, 1974, the special-assistance factor to be prescribed by the Secretary for free lunches shall reflect changes in the cost of operating a school lunch program under this Act by giving equal weight to changes in the wholesale prices of all foods and hourly wage rates for employees of eating places published by the Bureau of Labor Statistics of the Department of Labor.

"(b) Except as provided in section 10 of the Child Nutrition Act of 1966, the special-assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in financing the cost of providing free and reduced-price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents."

(b) Subsection (c) of such section (as so redesignated by subsection (a)) is amended by adding at the end thereof the following:

"(4) Notwithstanding any other provision of this Act, in the case of any school attendance unit in which 85 per centum or more of the students are eligible for free or reduced-price meals, all students in such school attendance units shall be served meals free of charge. In such case, all meals served in such attendance unit shall be reimbursed at the special assistance factor for free lunches approved by the State educational agency."

COMMODITIES

SEC. 11. Section 9 of the National School Lunch Act is amended by adding the following subsection:

"(d) In any fiscal year in which the Secretary is unable to expend the full amounts budgeted and programmed for the purchase of commodities under section 6 of this Act and section 32 of the Act of August 24, 1935, the amounts unexpended shall be distributed among the States for the purchase of food by public and non-profit private schools participating in school lunch program. The determination of the amounts available for such distribution shall be made by February 1 of each fiscal year and the actual distribution shall be made as soon as practicable after that date, but in no event later than March 15. The distribution of funds to the States under this section shall be made on the basis of the formula used in allocating section 6 and section 32 commodities for the school lunch program among the States."

DEFINITIONS

SEC. 12. Subsection 5(e) of the Child Nutrition Act of 1966 is amended by adding the following sentence at the end of such subsection: "For the purposes of this subsection the term 'schools without a food service' shall include those schools which have initiated food service on a temporary and emergency basis and desire to establish an improved and more effective food service on

a permanent basis to better meet the needs of children in attendance."

APPROPRIATIONS FOR NONFOOD ASSISTANCE

SEC. 13. The first sentence of section 5(a) of the Child Nutrition Act of 1966 is amended by deleting the figure "$20,000,000" and substituting the figure "$40,000,000".

EXTENSION OF PROGRAM TO ALL SCHOOLS

SEC. 14. Section 8 of the National School Lunch Act is amended by adding the following before the period at the end of said section: ": *Provided*, That a school food authority that operates a school lunch program under this Act in one or more of the public schools under its jurisdiction shall operate the program in all schools under its jurisdiction by no later than the fiscal year ending June 30, 1975. It is further provided that the national school lunch program is to be extended, by September 1, 1975, to all public schools in which children are in attendance who qualify for free or reduce-price lunches under the standards established by this Act."

INCLUSION OF TRUST TERRITORY

SEC. 15. Subsection (d) of section 12 of the National School Lunch Act, as amended, is amended by inserting the phrase "the Trust Territory of the Pacific Islands," before the word "or" in paragraph (1); by deleting paragraphs (4), (5), and (6); and by redesignating paragraph (7) as paragraph (4).

GRANTS FOR PROGRAM COSTS

SEC. 16. The National School Lunch Act is amended by adding at the end thereof the following:

"LOCAL COSTS OF SUPERVISION

"SEC. 17. The Secretary is authorized to make grants to State educational agencies, out of amounts appropriated by Congress for the purposes of this section, to assist in the supervision of local program operations. The grant to each State is to be determined on the basis of $250 for each school attendance unit participating in programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966."

By Mr. BURDICK:

S. 1064. A bill to improve judicial machinery by amending title 28, United States Code, to broaden and clarify the grounds for judicial disqualification. Referred to the Committee on the Judiciary.

JUDICIAL DISQUALIFICATION

Mr. BURDICK. Mr. President, in recent years changes in, and nominations to, the Supreme Court have brought public attention to the subject of judicial disqualification. But these celebrated instances have merely focused consideration upon a problem which, at one time or another, can confront every one of our 667 Federal judges.

Under section 455 of title 28, a justice or judge must disqualify himself in four instances.

First, when he has a substantial interest in any case,

Second, when he has been of counsel in any case,

Third, when he has been a material witness in any case, or

Fourth, when he is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the proceeding.

Two instances, that is, when the judge has been a counsel or material witness in a case, are fairly definite. But the other two instances are uncertain, their indefiniteness hinging upon the term "substantial" in the one instance, and upon the terms "so related to or connected with—as to render it improper in his opinion," to sit.

It will be perceived, as a practical matter, that in these two instances the statute leaves the matter of disqualification to the "subjective" opinion of the judge, or as some cases state it "to the conscience of a particular judge." However, the real evil of our present law is not so much this uncertainty of language or the subjective nature of the ultimate test but rather the fact that there is a corollary rule of law which says that a judge "has a duty to sit." In other words, our system does not permit us to indulge the judge who would "rather not" sit in a particular case. Our system says "if you are not disqualified you must sit."

It has been suggested by many, and I am inclined to agree, that the legal standard which Congress has set up under section 455 has the effect of placing a judge on the horns of a dilemma. And, of course, it may be equally unsatisfactory to litigants and their attorneys in a particular case.

The public attention to the subject of judicial disqualification prompted the American Bar Association in 1969 to appoint a special committee on standards of judicial conduct charged with the duty to study and to recommend such revisions to the Canons of Judicial Ethics as would make the canons adequate to meet the current needs and problems. The distinguished judges, lawyers, and legal scholars on this special committee were guided by Roger J. Traynor, former chief justice of the California Supreme Court. The committee included Federal judges from all levels of the Federal bench. The committee's recommendations were finally approved by the House of Delegates of the American Bar Association in August 1972. This new Code of Judicial Conduct covers many facets of judicial deportment and behavior, both on and off the bench.

Of particular concern are the provisions of Canon 3C and 3D which deal with circumstances when a judge should disqualify himself from participating in the trial or decision of a case.

The bill which is being introduced today is based upon the newly recommended ABA Code of Judicial Conduct and would amend 28 U.S.C. 455 so as to follow the new canons. This bill, as does the Canon 3C, attempts to be as specific as possible in enumerating the instances when a Federal judge should disqualify himself. In addition, the bill sets up a general standard that a judge should disqualify himself when "his impartiality might reasonably be questioned." This language eliminates the "subjective" opinion of the judge as the basis for disqualification and substitutes a so-called "reasonable man" test of impartiality. By so doing the "duty to sit" concept is eliminated.

Disqualification of a judge accomplishes a twofold purpose: it insures that a judicial decision is not tainted with partiality and it enhances public confidence in the judicial system. Certainly at a time when there are 667 Federal judges, active and retired, and at a time when Congress is asked to create an additional 62 judgeships, it is not inappropriate for Congress to say that a judge, whose impartiality might reasonably be questioned should step aside and let another judge handle the proceeding.

It is believed that the enactment of this bill will do much to remove our Federal judges from the horns of the dilemma they currently face. Congress will have specified the amount and type of financial interest, the degree of relationship, and the prior association which forces disqualification. Congress will have relieved the judge of the "duty to sit" which presently clouds his judgment when he is forced to determine whether his interest in a case is so "substantial" as to require his disqualification.

Mr. President, I believe that a revision of the existing statute on disqualification is now required. I ask unanimous consent that the test of S. 1064 be printed in the RECORD following these remarks.

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

S. 1064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 455 of title 28, United States Code, is amended to read as follows:

"§ 455. Disqualification of justice or judge

"(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

"(b) He shall also disqualify himself in the following circumstances—

"(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

"(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

"(3) Where he has served in governmental employment and in such capacity participated as counsel, advisor or material witness concerning the proceeding or expressed an opinion concerning the merits of the controversy;

"(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

"(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person;

"(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

"(ii) Is acting as a lawyer in the proceeding;

"(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

"(iv) Is to the judge's knowledge likely to be a material witness in the proceeding;

"(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

"(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

"(1) "Proceeding" includes pre-trial, trial, appellate review or other stages of litigation;

"(2) The degree of relationship is calculated according to the civil law system;

"(3) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

"(4) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

"(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

"(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

"(iii) The proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

"(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

"(e) No justice, judge, or magistrate shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification."

"Sec. 2. This act shall not apply to the trial of any proceeding commenced prior to the date of this act, nor to appellate review of any proceeding which was fully submitted to the reviewing court prior to the date of this act."

By Mr. MAGNUSON (by request):

S. 1065. A bill to amend section 1306(a) of the Federal Aviation Act of 1958, as amended, to authorize the investment of the war risk insurance fund in securities of, or guaranteed by, the United States. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend section 1306(a) of the Federal Aviation Act of 1958, as amended, to authorize the investment of the war risk insurance fund in securities of, or guaranteed by, the United States and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 22, 1973.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for introduction and referral to the appropriate Committee is a draft bill "To amend section 1306 (a) of the Federal Aviation Act of 1958, as amended, to authorize the investment of the war risk insurance fund in securities of, or guaranteed by, the United States."

The purpose of this proposed legislation is to amend the War Risk Insurance Provisions of the Federal Aviation Act of 1958 to permit, at the request of the Secretary of Transportation, portions of the aviation war risk revolving fund to be invested by the Secretary of the Treasury in securities of the United States or in securities that are guaranteed as to principal and interest by the United States. The bill additionally provides that the interest and benefits accruing from these securities shall be deposited to the credit of that fund.

The present aviation war risk insurance program, as provided for in title XIII of the Federal Aviation Act (49 U.S.C. § 1531–1542), provides for war risk insurance policies to be issued by the Secretary under certain conditions (49 U.S.C. § 1532) and for the premiums received in consideration for such policies to be deposited in a revolving fund in the Treasury (49 U.S.C. § 1536(a)). There is no express authority under the existing title to invest the premiums for the benefit of the fund. The Department of the Treasury has advised us that the investment of treasury revolving funds is a common practice but that express statutory authority is a prerequisite to such investment.

Examples of such authority are found in 38 U.S.C. § 5228 which confers authority to invest and reinvest money in the General Post Fund of the Veterans Administration; 10 U.S.C. § 2601(d) which confers investment authority in relation to the National Credit Union Share Insurance Fund of the National Credit Union Administration; and 46 U.S.C. § 1288(a) which confers investment authority in relation to the maritime war risk insurance program. That section pertaining to maritime war risk insurance provides as follows:

"§ 1288. Insurance fund; investments; appropriations.

(a) The Secretary shall create an insurance fund in the Treasury to enable him to carry out the provisions of this title and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this title shall be deposited in the Treasury to the credit of such fund. Payments of return premiums, losses, settlements, judgments, and all liabilities incurred by the United tSates under this title shall be made from such fund through the Division of Disbursement, Treasury Department. Upon the request of the Secretary of Commerce, the Secretary of the Treasury may invest or reinvest all or any part of the fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and benefits accruing from such securities shall be deposited to the credit of the fund."

The language in our proposed bill closely follows that of the maritime war risk program, as the Treasury Department has indicated to us that this language is acceptable, and since the aviation war risk insurance program has closely followed the maritime war risk insurance provisions. As the Senate Committee on Interstate and Foreign Commerce explained in reporting on the aviation bill in 1951:

"This bill follows very closely the marine war risk insurance legislation enacted on September 7, 1950. It varies first only in the extent necessary to make it applicable to aircraft and secondly, it is more restrictive than the marine legislation in that it limits the insurance to war-risk insurance. Further more, the bill authorizes suits under it in the district courts rather than in the admiralty courts." (S. Rept. No. 128, 82d Cong., 1st Sess. (1951), p. 4)

In 1962, the maritime war risk insurance program was amended by Public Law 82–743, (76 Stat. 740), and codified at 46 U.S.C. § 1288(a), for the purpose of expressly authorizing investment of the funds reposing in the maritime war risk insurance fund. In reporting out that bill, the House Committee on Merchant Marine and Fisheries concluded that the 1962 maritime war risk insurance legislation was essentially identical to the then-existing aviation program except for the 1962 bill's grant of investment authority. (H. Rept. No. 2220, 87th Cong, 2nd Sess. (1962), reprinted at 1962 U.S. Code Cong. & Ad. News, 2782).

Today, in view of the rather sizable sum of money that is currently available in the aviation war risk revolving fund and the possible continued growth of the fund, we recommend enactment of this proposed legislation, which is similar to the 1962 amendment to the maritime act, to authorize the Secretary of the Treasury to invest and reinvest all or any part of the aviation war risk insurance revolving fund upon the request of the Secretary of Transportation.

As of December 31, 1971, the fund balance reflected total earned premiums of $8,158,837.54 and premium deposits of $1,629,468.58. The amount representing premium deposits fluctuates only slightly while the earned premium account continues to grow (presently at the rate of $400,000.00 per month). Included in the earned premium totals is an accounts receivable item of $4,881,854.77 representing a loan made by the Department to Pan American World Airways in connection with the hijacking and subsequent destruction of their Boeing 747 aircraft on September 6, 1970 in Cairo, Egypt. The cash balance remaining is approximately $5,000,000.00.

In summary, the Department feels that authority should be granted to invest these insurance premiums for the benefit of the aviation war risk insurance program. The Federal Maritime Administration has advised us that since 1962, they have earned in excess of $1.5 million in interest on the maritime war risk revolving fund which is considerably smaller than the title XIII aviation fund. At the present premium level a conservative estimate of the annual investment income resulting from the enactment and implementation of this proposal would be approximately $200,000.00.

The Department has additionally considered the environmental and civil rights implications of this proposed action and believes that implementation of this proposal would have no significant impact in these areas.

The Office of Management and Budget advises that it has no objection to the submission of this proposed legislation to the Congress.

Sincerely,

JOHN A. VOLPE.

S. 1065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1306(a) of the Federal Aviation Act, 1958, (49 U.S.C. 1536), is amended by inserting at the end thereof the following: "Upon the request of the Secretary of Transportation, the Secretary of the Treasury may invest or reinvest all or any part of the fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and benefits accruing from such securities shall be deposited to the credit of the fund."

By Mr. MAGNUSON (by request):

S. 1066. A bill to amend title 49, United States Code, to provide for criminal penalties for all who knowingly and willfully refuse or fail to file required reports, keep required data or falsify records; provide criminal penalties for unlawful carriage of persons for compensation or hire; to increase the civil penalty limits; and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend title 49, United States Code, to provide for criminal penalties for all who knowingly and willfully refuse or fail to file required re-

ports, keep required data or falsify records; provide criminal penalties for unlawful carriage of persons for compensation or hire; to increase the civil penalty limits; and for other purposes, and ask unanimous consent that the letter of transmittal, and section-by-section analysis be printed in the RECORD with the text of the bill.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 22, 1973.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for introduction and referral to the appropriate Committee is a draft bill "To amend title 49, United States Code, to provide for criminal penalties for all who knowingly and willfully refuse or fail to file required reports, keep required data or falsify records; provide criminal penalties for unlawful carriage of persons for compensation or hire; to increase the civil penalty limits; and for other purposes."

The Department of Transportation is proposing this legislation amending sections 901 and 902 of the Federal Aviation Act of 1958, as amended (49 U.S.C. § 1471–1472), to combat violations of the Federal Aviation Act, and regulations and orders issued thereunder by those who engage in common or private carriage of persons or property for compensation or hire. In recent years the Department has been investigating a significant number of commercial operations and has found frequent violations of provisions of the Federal Aviation Act and the regulations and orders issued pursuant thereto. This legislation has been drafted with a keen awareness of the needs of aviation safety as an attempt at deterring future violations.

Specifically, the bill would increase the maximum civil penalties in section 901 from $1,000 to $25,000 and amend section 902 to apply criminal penalties for the carriage of persons for compensation or hire without an appropriate safety operating certificate. Criminal sanctions would also attach to commercial operators and others who fail to file reports with the Civil Aeronautics Board or Secretary of Transportation, fail to keep required records, or falsify any such reports or data.

Section 901(a) of the Federal Aviation Act currently provides a civil penalty not to exceed $1,000 for each violation of titles III, IV, V, VI, VII, or XII of the Act, section 1002(i) of the Act, or any regulations or orders promulated pursuant thereto. We are convinced that the prescribed maximum penalty is an inadequate deterrent to such violations. For example, our investigations have shown that many unlawful commercial operators assume the $1,000 civil penalty as a cost of doing business and continue to operate illegally at substantial profits. Therefore, section 1 of this draft bill would increase the maximum penalty to $25,000 to eliminate any economic incentive to maintain these unlawful commercial operations.

Section 901 of the Federal Aviation Act provides a valuable enforcement tool frequently used by the Department's Federal Aviation Administration. Increasing the civil penalty limits for each violation of the above-enumerated titles of the Act and the regulations and orders promulgated pursuant thereto, therefore, would not be confined to imposing sanctions for unlawful commercial operations. For instance, the Department could usefully employ these increased civil penalty limits to enforce the recently adopted provisions of Parts 121 and 107 of the Federal Aviation Regulations which pertain to airport and aircraft security. We feel that this amendment to section 901 of the Act would effectively assist the Department in meeting the continued threat of aircraft hijackings and would be consonant with the President's Anti-Hijacking Program. This bill retains the provision of section 901(a)(2) whereby the Secretary of Transportation may compromise the imposition of such civil penalties.

Section 2 of the bill adds new section 902(b) to provide additional criminal penalties for the unlawful carriage of persons for compensation or hire without an appropriate certificate. We feel that the existence of a substantial criminal sanction in this area, in addition to the existing non-criminal enforcement procedures, would aid us considerably in curbing this kind of operation. During hearings before the Senate Commerce Committee in March 1971, Chairman Browne of the Civil Aeronautics Board recommended that criminal penalties be applied to unlawful operators of aircraft carrying passengers or cargo for compensation or hire. We have not included criminal sanctions for the unlawful carriage of *property* in section 2 of our proposed bill, as this type of unlawful operations does not present the same potential risk to human safety as does the carriage of persons.

Section 3 of the bill amends section 902(e) of the Act. That section currently provides criminal penalties for air carriers (or any officer, agent, employee, or representative thereof) who knowingly and willfully refuse or fail to file required reports, fail to keep required data, or falsify or mutilate required reports. This amendment would place commercial operators and others within the purview of this section. We feel that this amendment is vitally needed in view of past experiences which have revealed instances of such conduct by commercial operators. We see no reason to excuse them, or others for that matter, from this responsibility.

This Department has considered the environmental and civil rights implications of this proposed action and believes that implementation of this proposal would have no adverse impact in these areas.

The Office of Management and Budget advises that it has no objection to our submission of this proposed legislation to the Congress.

Sincerely,

JOHN A. VOLPE.

SECTION-BY-SECTION ANALYSIS

Section 1. This section amends Section 901(a)(1) of the Federal Aviation Act of 1958, as amended [49 U.S.C. § 1471(a)(1)] to increase the civil penalty limits for each violation of the provisions of titles III, IV, V, VI, VII, or XII of the Act, Section 1002(i) of the Act, and the regulations and orders promulgated pursuant to it, from $1,000 to $25,000. Past Department investigations of commercial operations have shown that the existing penalty of $1,000 is an inadequate deterrent to future violations of these provisions, since many commercial operators accept this penalty as a cost of doing business. The proposed increase in penalties to $25,000 for each violation would potentially eliminate the profit in most of these unlawful operations. Increasing the civil penalty limits for each violation would, of course, not be confined to imposing sanctions on commercial operations, as the increased limits would apply to violations of the above enumerated titles and all regulations and orders promulgated pursuant to the Act, including the recently adopted provisions of the Federal Aviation Regulations Parts 121 and 107 pertaining to airport and aircraft security. This amendment to Section 901 of the Act would substantially assist the Department in curbing aircraft hijackings.

Section 2. This section adds a new Section 902(b) to the Act [49 U.S.C. § 1472(b)] to provide additional criminal penalties for the unlawful carriage of persons for compensation or hire without an appropriate certificate issued by the Secretary of Transportation. The proposed sanctions, consisting of a fine not exceeding $25,000 or imprisonment not exceeding 5 years would aid considerably in curbing these illegal operations. The Chairman of the CAB, during hearings before the Senate Commerce Committee in March 1971, recommended that criminal sanctions attach to unlawful operators of aircraft carrying passengers or cargo for compensation or hire. This section does not include criminal sanctions for the unlawful carriage of property, as this type of unlawful operation does not present the same potential risk to human safety as does the carriage of persons. This limitation in Section 2 is based upon our awareness of the intensely difficult burden of proof associated with the prosecution of such violators.

Section 3. This section amends section 902(e) of the Act [49 U.S.C. § 1472(e)] to provide criminal penalties in amounts ranging from $100 to $5,000 for anyone who knowingly and willfully refuses or fails to file required reports, fails to keep required data, or falsifies or mutilates required reports. Section 902(e) currently provides these penalties for air carriers only. This proposed amendment would place commercial operators and others within the purview of this section.

COST ANALYSIS

We have reviewed this legislation for a 5-year period and anticipate that it will not have a budgetary impact.

S. 1066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, The first sentence of section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. § 1471) is amended to read as follows:

"Any person who violates (A) any provision of Title III, IV, V, VI, VII, or XII of this Act, or any rule, regulation, or order issued thereunder, or under Section 1002(i), or any term, condition, or limitation of any permit or certificate issued under Title IV, or (B) any rule or regulation issued by the Postmaster General under this Act, shall be subject to a civil penalty of not to exceed $25,000 for each such violation."

SEC. 2. Section 902 of the Federal Aviation Act of 1958 (49 U.S.C. § 1472) is amended by redesignating existing subsections (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), n), and (o), and any references thereto contained in such Act, as subsections (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p), respectively, and by inserting a new subsection (b) as follows:

"Illegal Carriage of Persons for Compensation or Hire

"(b) Any person who knowingly and willfully operates a civil aircraft in air commerce carrying persons for compensation or hire without an appropriate certificate issued by the Secretary authorizing such operation shall be subject to a fine of not exceeding $25,000 or to imprisonment not exceeding 5 years, or to both such fine and imprisonment."

SEC. 3. Section 902(e) of the Federal Aviation Act of 1958 (49 U.S.C. § 1472(e)) is amended to read as follows:

"(f) Any person who shall, knowingly and willfully fail or refuse to make a report to the Board or Secretary of Transportation as required by this Act, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board or Secretary of Transportation, or shall, knowingly and willfully falsify, mutilate or alter any such report, account, record

or memorandum, or shall knowingly and willfully file any false report, account, record or memorandum, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than $100 and not more than $5,000."

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1067. A bill to amend the Oil Pollution Act, 1961 (75 Stat. 402), as amended, to implement the 1969 and 1971 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, on behalf of myself and the Senator from New Hampshire (Mr. COTTON) I introduce, by request, for appropriate reference, a bill to amend the Oil Pollution Act, 1961 (75 Stat. 402), as amended, to implement the 1969 and the 1971 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes, and ask unanimous consent that the letter of transmittal and changes in existing law be printed in the RECORD with the text of the bill.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill, "To amend the Oil Pollution Act, 1961, (75 Stat. 402), as amended, to implement the 1969 and 1971 amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended; and for other purposes."

The proposed bill would incorporate into the existing domestic law which implements the original 1954 Oil Pollution Convention the latest amendments to the Convention adopted by the Intergovernmental Maritime Consultative Organization (IMCO) by Resolution A.175(VI) on October 21, 1969; Resolution A.232 (VII) on October 12, 1971, and Resolution A.246(VII) on October 15, 1971. You will recall that ratification of the 1969 amendments was advised and consented to by the Senate on September 20, 1971. Additionally in May 1972 the 1971 amendments were submitted to the Senate for their advice and consent. The submission of draft legislation at this time is in accord with the Executive Branch intention of seeking legislative implementation at the earliest possible time.

The 1969 convention changes, particularly as they impose more stringent constraints on oil and oily mixture discharges from vessels anywhere, represent another advancing step toward remedy of ocean oil pollution, a major international as well as national environmental problem. Those amendments abandon the concept which prohibited discharges within certain zones (generally within 50 miles of land) and which discouraged but did not prohibit indiscriminate discharges in the open sea beyond the zones. Under the amendments and the legislation here proposed, discharges will be prohibited anywhere unless certain conditions are met. Those conditions relate to discharge rate, oily mixture dilution, total quantity of oil discharged, and distance from land. For example, a tanker will be prohibited from any discharges within 50 miles of land, and beyond that distance may only discharge while proceeding enroute and so long as a discharge of oil content does not exceed 60 liters per mile, and provided that the total quantity of oil discharged on a ballast voyage does not exceed 1/15,000 of the total cargo-carrying capacity of the vessel.

The 1971 amendments apply the distance from land criterion for discharges of oil and oily mixtures to the area of the Great Barrier Reef as if it were land, and concern tank arrangements and limitations of tank size for new tank vessels. The objective of the amendments relating to tank arrangements and tank size is to limit the quantity of oil which can escape into the sea as the result of collision or other vessel casualty.

In addition to the criminal penalties now provided for violations of the 1961 Act these proposed amendments would make civil penalties also available for more flexible and effective enforcement. Article VI of the Oil Pollution Convention requires that penalties which a country imposes for unlawful discharges by domestic vessels beyond its territorial sea shall not be less than those for the same infringements within the territorial sea. That requirement will be satisfied because the civil penalties proposed in the draft bill are equal to or larger in amount than those contained in section 311 of the Federal Water Pollution Control Act (P.L. 92–500).

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget advises that this proposed legislation is consistent with the Administration's objectives.

Sincerely,

CLAUDE S. BRINEGAR.

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY PROPOSED BILL

(Matter proposed to be deleted is enclosed in brackets; new matter is italic).

OIL POLLUTION ACT, 1961 (33 U.S.C. 1001–1015)

Public Law 87–167; 75 Stat. 402 as amended P.L. 89–551; 80 Stat. 372. An Act to implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That: This Act, to implement the provisions of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, may be cited as the "Oil Pollution Act, 1961, as amended".

SEC. 2. Definitions.—As used in this Act, unless the context otherwise requires—

(a) The term "convention" means the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended;

(b) The term "discharge" in relation to oil or to an oily mixture means any discharge or escape howsoever caused;

(c) *The term "instantaneous rate of discharge of oil content" means the rate of discharge of oil in liters per hour at any instant divided by the speed of the ship in knots at the same instant;*

[(c)] *(d)* The term "heavy diesel oil" means [marine] diesel oil, other than those distillates of which more than 50 per centum, by volume distills at a temperature not exceeding three hundred and forty degrees centigrade when tested by American Society for the Testing of Materials standard method [D. 86/59] *D. 86–71 or any later revisions subject to regulatory acceptance by the Coast Guard.*

[(d)] *(e)* The term "mile" means a nautical mile of six thousand and eighty feet or one thousand eight hundred and fifty-two meters;

[(e)] *(f)* The term "oil" means crude oil, fuel oil, heavy diesel oil, and lubricating oil, and "oily" shall be construed accordingly [.]; [An] *an* "oily mixture" means a mixture with [an] *any* oil content; [of one hundred parts or more in one million parts of mixture.]

[(f)] *(g)* The term "person" means an individual, partnership, corporation, or association; and any owner, operator, agent, master, officer, or employee of a ship;

[(g) The term "prohibited zones" means the zones described in section 12 of this Act as modified by notices, if any, of extension or reduction issued by the Secretary;]

(h) The term "Secretary" means the Secretary of the [Army;] *department in which the Coast Guard is operating;*

(i) The term "ship", subject to the exceptions provided in paragraph (1) of this subsection, means any seagoing vessel of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage; and "tanker", as a type included within the term "ship", means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

(1) The following categories of vessels are excepted from all provisions of this Act:

(i) tankers of under one hundred and fifty tons gross tonnage and other ships of under five hundred tons gross tonnage.

(ii) ships for the time being engaged in the whaling industry when actually employed on whaling operations.

(iii) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of Saint Lambert lock at Montreal in the Province of Quebec, Canada.

(iv) naval ships and ships for the time being used as naval auxiliaries.

(j) The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958; *except that, for the purpose of this Act "from the nearest land" off the northeastern coast of Australia means a line drawn from a point on the coast of Australia in latitude 11° south, longitude 142°08' East to a point in latitude 10°35' South, longitude 141°55' East—*

thence to a point latitude 10°00' South, longitude 142°00' East

thence to a point latitude 9°10' South, longitude 143°52' East

thence to a point latitude 9°00' South, longitude 144°30' East

thence to a point latitude 13°00' South, longitude 144°00' East

thence to a point latitude 15°00' South, longitude 146°00' East

thence to a point latitude 18°00' South, longitude 147°00' East

thence to a point latitude 21°00' South, longitude 153°00 East

thence to a point on the coast of Australia in latitude 24°42' South, longitude 153°15' East.

Sec. 3. Subject to the provisions of sections 4 and 5, [it shall be unlawful for any person to discharge oil or oily mixture from:

[(a) a tanker within any of the prohibited zones.

[(b) a ship, other than a tanker, within any of the prohibited zones, except when the ship is proceeding to a port not provided with facilities adequate for the reception, without causing undue delay, it may discharge such residues and oily mixture as would remain for disposal if the bulk of the water had been separated from the mixture: Provided, such discharge is made as far as practicable from land.

[(c) a ship of twenty thousand tons gross

tonnage or more, including a tanker, for which the building contract is placed on or after the effective date of this Act. However, if in the opinion of the master, special circumstances make it neither reasonable nor practicable to retain the oil or oily mixture on board, it may be discharged outside the prohibited zones. The reasons for such discharge shall be reported in accordance with the regulations prescribed by the Secretary.] *the discharge of oil or oily mixture from a ship is prohibited unless—*

(a) the ship is proceeding enroute; and

(b) the instantaneous rate of discharge of oil content does not exceed 60 liters per mile, and

(c) (1) for a ship, other than a tanker—

(i) the oil content of the discharge is less than 100 parts per 1,000,000 parts of the mixture, and

(ii) the discharge is made as far as practicable from land;

(2) for a tanker, except discharges from machinery space bilges which shall be governed by the above provisions for ships other than tankers,—

(i) the total quantity of oil discharged on a ballast voyage does not exceed 1/15,000 of the total cargo-carrying capacity, and

(ii) the tanker is more than 50 miles from the nearest land.

Sec. 4. Section 3 [shall] *does* not apply to—

(a) the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea; or

(b) the escape of oil, or of oily mixture, resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape[;].

[(c) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil: Provided, That such discharge is made as far from land as practicable.]

Sec. 5. Section 3 [shall] *does* not apply to the discharge [from the bilges of a ship of an oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces.] *of tanker ballast from a cargo tank which, since the cargo was last carried therein, has been so cleaned that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of oil on the surface of the water.*

Sec. 6.

(a) Every tanker to which this Act applies and built in the United States and for which the building contract is placed on or after the effective date of this section shall be constructed in accordance with the provisions of Annex C to the convention, relating to tank arrangement and limitation of tank size.

(b) Every tanker to which this Act applies and built in the United States and for which the building contract is placed, or in the absence of a building contract the keel of which is laid or which is at a similar state of construction, before the effective date of this section, shall, within two years after that date, comply with the provisions of Annex C to the convention if

(1) the delivery of the tanker is after 1 January 1977; or

(2) the delivery of the tanker is not later than 1 January 1977 and the building contract is placed after 1 January 1972, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction, after 30 June 1972.

(c) A tanker required under this section to be constructed in accordance with Annex C to the convention and so constructed shall carry on board a certificate issued by the Secretary attesting to that compliance. A tanker which is not required to be constructed in accordance with Annex C to the convention shall carry on board a certificate to that effect issued by the Secretary, or if a tanker does comply with Annex C though not required to do so, she may carry on board a certificate issued by the Secretary attesting to that compliance. Tankers under the flag of the United States are prohibited from engaging in domestic or foreign trade without an appropriate certificate issued under this section.

(d) Certificates issued to foreign tankers pursuant to the convention by other nations party thereto shall be accepted by the Secretary as of the same force as certificates issued by him. If the Secretary has clear grounds for believing that a foreign tanker required under the convention to be constructed in accordance with Annex C entering ports of the United States or using offshore terminals under United States control does not in fact comply with Annex C, he may request the Secretary of State to seek consultation with the government with which such tanker is registered. If, after consultation or otherwise, the Secretary is satisfied that the tanker does not comply with Annex C, he may for this reason deny such tanker access to ports of the United States or to off-shore terminals under United States control until such time as he is satisfied that the tanker has been brought into compliance.

(e) If the Secretary is satisfied that any other foreign tanker which, if registered in a country party to the convention, would be required to be constructed in accordance with Annex C, does not in fact comply with the standards relating to tank arrangement and limitation of tank size of Annex C, then he may deny such tanker access to ports of the United States or to off-shore terminals under United States control.

Sec. [6] 7. [Any person who violates any provision of the Act, except section 8(b) and 9, or any regulations prescribed in pursuance thereof, is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment not exceeding one year, or by both such fine and imprisonment, for each offense. And any ship (other than a ship owned and operated by the United States) from which oil is discharged in violation of this Act, or any regulation prescribed in pursuance thereof, shall be liable for the pecuniary penalty specified in this section, and clearance of such ship from a port of the United States may be withheld until the penalty is paid, and said penalty shall constitute a lien on such ship which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the ship may be.]

(a) Any person who willfully discharges oil or oily mixture from a ship in violation of this Act or the regulations thereunder shall be fined not more than $10,000 for each violation or imprisoned not more than one year, or both.

(b) In addition to any other penalty prescribed by law any person who willfully or negligently discharges oil or oily mixture from a ship in violation of this Act or any regulation thereunder shall be liable to a civil penalty of not more than $10,000 for each violation, and any person who otherwise violates this Act or any regulation thereunder shall be liable to a civil penalty of not more than $5,000 for each violation.

(c) A ship from which oil or oily mixture is discharged in violation of this Act or any regulation thereunder is liable for any pecuniary penalty under this section and may be proceeded against in the district court of any district in which the vessel may be found.

(d) The Secretary may assess any civil penalty incurred under this Act or any regulation thereunder and, in his discretion, remit, mitigate, or compromise any penalty. No penalty may be assessed unless the alleged violator shall have been given notice and the opportunity to be heard on the alleged violation. Upon any failure to pay a civil penalty assessed under this Act, the Secretary may request the Attorney General to institute a civil action to collect the penalty. In hearing such action, the district court shall have authority to review the violation and the assessment of the civil penalty de novo.

Sec. [7] *8.* The Coast Guard may, subject to the provisions of section 4450 of the Revised Statutes, as amended (46 U.S.C. 239), suspend or revoke a license issued to the master or other licensed officer of any ship found violating the provisions of this Act or the regulations issued pursuant thereto.

Sec. [8] *9.* In the administration of sections 1–12 of this Act, the Secretary may [make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed under his direction in the improvement of rivers and harbors and in the enforcement of laws for the improvement of rivers and harbors and in the enforcement of laws for the preservation and protection of navigable waters] *utilize by agreement, with or without reimbursement, law enforcement officers or other personnel, facilities or equipment of other Federal agencies or the States.* For the better enforcement of the provisions of said sections, [the officers and agents of the United States in charge of river and harbor improvements and persons employed under them by authority of the Secretary, and officers and employees of the Bureau of Customs and the Coast Guard] *officers of the Coast Guard and other persons employed by or acting under the authority of the Secretary* shall have power and authority and it shall be their duty to swear out, process and to arrest and take into custody, with or without process, any person who may violate any of said provisions: Provided, That no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid officials: And provided further, That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. Representatives of the Secretary [and of the Bureau of Customs] and Coast Guard of the United States may go on board and inspect any ship [in a prohibited zone or in a port of the United States] as may be necessary for enforcement of this Act.

(b) To implement article VII of the convention, ship fittings and equipment, and operating requirements thereof, shall be in accordance with regulations prescribed by the Secretary. [of the Department in which the Coast Guard is operating. Any person found violating these regulations shall, in addition to any other penalty prescribed by law, be subject to a civil penalty not in excess of $100.]

Sec. [9] *10.* (a) The Secretary shall have printed separate oil record books containing instructions and spaces for inserting information in the form prescribed by the Convention, which shall be published in regulations prescribed by the Secretary.

(b) If subject to this Act, every ship using oil fuel and every tanker shall be provided, without charge, an oil record book which shall be carried on board. The provisions of Section 140 of Title 5, United States Code, shall not apply. The ownership of the booklet shall remain in the United States Government. This book shall be available for inspection as provided in this Act and for

surrender to the United States Government pursuant to regulations of the Secretary.

[(c) The oil record book shall be completed on each occasion, whenever any of the following operations takes place in the ship:

[(1) ballasting of and discharge of ballast from cargo tanks of tankers;

[(2) cleaning of cargo tanks of tankers;

[(3) settling in slop tanks and discharge of water from tankers;

[(4) disposal from tankers of oily residues from slop tanks or other sources;

[(5) ballasting, or cleaning during voyage, of bunker fuel tanks of ships other than tankers;

[(6) disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;

[(7) accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.]

(c) The oil record book shall be completed on each occasion, on a tank-to-tank basis, whenever any of the following takes place in the ship:

(1) for tankers;

(i) loading of oil cargo;

(ii) transfer of oil cargo during voyage;

(iii) discharge of oil cargo;

(iv) ballasting of cargo tanks;

(v) cleaning of cargo tanks;

(vi) discharge of dirty ballast;

(vii) discharge of water from slop tank;

(viii) disposal of residues;

(ix) discharge overboard of bilge water containing oil which has accumulated in machinery spaces while in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate log book;

(2) for ships other than tankers:

(i) ballasting or cleaning of bunker fuel tanks;

(ii) discharge of dirty ballast or cleaning water from bunker fuel tanks;

(iii) disposal of residues;

(iv) discharge overboard of bilge water containing oil which has accumulated in machinery spaces while in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate log book.

In the event of such discharge or escape of oil or oily mixture, as is referred to in section[s 3(c) and] 4 of this Act, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

(d) Each operation described in section [9] *10* (c) of the Act shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship.

(e) Oil record books shall be kept in such manner and for such length of time as set forth in the regulations prescribed by the Secretary.

[(f) If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this Act or regulations prescribed thereunder by the Secretary which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 or imprisonment for a term not exceeding six months, or both.]

Sec. [10] *11.* The Secretary may make regulations for the administration of sections 3, 4, 5, *6, 7* [8(a)], 9 and [12] *10.*

Sec. 11 *12.* (a) The Secretary may make regulations empowering such persons as may be designated to go on board any ship to which the convention applies, while the ship is within the territorial jurisdiction of the United States, and to require production of any records required to be kept in accordance with the convention.

(b) Should evidence be obtained that a ship registered in another country party to the convention has discharged oil in *violation of the convention but outside the territorial sea of the United States* [any prohibited zone], such evidence should be forwarded to the State Department for action in accordance with article X of the convention.

[Sec. 12. Prohibited zones, publications of reduction or extension of zones

[(a) All sea areas within fifty miles from the nearest land shall be prohibited zones, subject to extensions or reduction effectuated in accordance with the terms of the Convention, which shall be published in regulations prescribed by the Secretary.

[(b) With respect to the reduction or extension of the zones described under the terms of the Convention, the Secretary shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy.]

Sec. [14] *13.* There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Sec. [15] *14.* If a provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Sec. [16] *15.* Nothing in this Act or in regulations issued hereinunder shall be construed to modify or amend the provisions of *section 311 of the* [Oil Pollution Act, 1924.] *Federal Water Pollution Control Act,* or of section 89 of Title 14.

[Sec. 17. (a) This Act shall become effective upon the date of its enactment or upon the date the amended Convention becomes effective as to the United States, whichever is the later date.

[(b) Any rights or liabilities existing on the effective date of this Act shall not be affected by the enactment of this Act. Any procedures or rules or regulations in effect on the effective date of this Act shall remain in effect until modified or superseded under the authority of the Act. Any reference in any other law or rule or regulation prescribed pursuant to law to the "International Convention for the Prevention of the Pollution of the Sea by Oil, 1954," shall be deemed to be a reference to that Convention as revised by the "amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954," which were adopted by a Conference of contracting Governments convened at London on April 11, 1962. Any reference in any other law or rule or regulation prescribed pursuant to law to the "Oil Pollution Act, 1961," approved August 30, 1961, shall be deemed to be a reference to that Act as amended by this Act.]

S. 1067

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 Oil Pollution Act Amendments of 1973.

SEC. 2. The Oil Pollution Act, 1961 (75 Stat. 402), as amended (33 U.S.C. 1001–1015), is amended as follows:

(1) Section 2 (33 U.S.C. 1001) is amended—

(A) by redesignating subsections (c), (d), (e), and (f), as subsections (d), (e), (f), and (g), respectively;

(B) by adding a new subsection (c) to read, "(c) The term "instantaneous rate of discharge of oil content' means the rate of discharge of oil in liters per hour at any instant divided by the speed of the ship in knots at the same instant;";

(C) in subsection (c) [redesignated (d) by subparagraph (A) of this paragraph]:

(1) by deleting the word "marine"; and

(2) by deleting the figures "D–86/59" at the end of the sentence and inserting in lieu thereof the phrase "D.86–71 or any later revisions subject to regulatory acceptance by the Coast Guard";

(D) in subsection (e) [redesignated (f) by subparagraph (A) of this paragraph] by changing the period to a semicolon at the end of the first sentence thereof and by amending the second sentence to read "an 'oily mixture' means a mixture with any oil content;";

(E) by repealing subsection (g); and

(F) by amending subsection (h) to read "The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating;".

(G) in subsection (j) by changing the period to a semicolon and by adding the following to the sentence:

"except that, for the purpose of this Act 'from the nearest land' off the northeastern coast of Australia means a line drawn from a point on the coast of Australia in latitude 11° South, longitude 142°08' East to a point in latitude 10°35' South, longitude 141°55' East—

thence to a point latitude 10°00' South, longitude 142°00' East

thence to a point latitude 9°10' South, longitude 143°52' East

thence to a point latitude 9°00' South, longitude 144°30' East

thence to a point latitude 13°00' South, longitude 144°00' East

thence to a point latitude 175°00' South, longitude 146°00' East

thence to a point latitude 18°00' South, longitude 147°00' East

thence to a point latitude 21°00' South, longitude 153°00' East

thence to a point on the coast of Australia in latitude 24°42' South, longitude 153°15' East."

(2) Section 3 (33 U.S.C. 1002) is amended to read as follows:

"SEC. 3. Subject to the provisions of sections 4 and 5, the discharge of oil or oily mixture from a ship is prohibited unless—

(a) the ship is proceeding enroute; and

(b) the instantaneous rate of discharge of oil content does not exceed 60 liters per mile, and

(c)(1) for a ship, other than a tanker—

(i) the oil content of the discharge is less than 100 parts per 1,000,000 parts of the mixture, and

(ii) the discharge is made as far as practicable from land;

(2) for a tanker, except discharges from machinery space bilges which shall be governed by the above provisions for ships other than tankers—

(i) the total quantity of oil discharged on a ballast voyage does not exceed 1/15,000 of the total cargo-carrying capacity, and

(ii) the tanker is more than 50 miles from the nearest land.".

(3) Section 4 (33 U.S.C. 1003) is amended—

(A) by changing the word "shall" to "does" in the introductory clause thereof;

(B) by changing the semicolon to a period at the end of subsection (b) thereof; and

(C) by repealing subsection (c) thereof.

(4) Section 5 (33 U.S.C. 1004) is amended to read as follows:

"SEC. 5. Section 3 does not apply to the discharge of tanker ballast from a cargo tank which, since the cargo was last carried therein, has been so cleaned that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of oil on the surface of the water.".

(5) Insert a new section 6, to read as follows, following section 5:

"SEC. 6. (a) Every tanker to which this Act applies and built in the United States and for which the building contract is placed on or after the effective date of this section shall be constructed in accordance with the

provisions of Annex C to the convention, relating to tank arrangement and limitation of tank size.

(b) Every tanker to which this Act applies and built in the United States and for which the building contract is placed, or in the absence of a building contract the keel of which is laid or which is at a similar state of construction, before the effective date of this section, shall, within two years after that date, comply with the provisions of Annex C to the convention if

(1) the delivery of the tanker is after 1 January 1977; or

(2) the delivery of the tanker is not later than 1 January 1977 and the building contract is placed after 1 January 1972, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction, after 30 June 1972.

(c) A tanker required under this section to be constructed in accordance with Annex C to the convention and so constructed shall carry on board a certificate issued by the Secretary attesting to that compliance. A tanker which is not required to be constructed in accordance with Annex C to the convention shall carry on board a certificate to that effect issued by the Secretary, or if a tanker does comply with Annex C though not required to do so, she may carry on board a certificate issued by the Secretary attesting to that compliance. Tankers under the flag of the United States are prohibited from engaging in domestic or foreign trade without an appropriate certificate issued under this section.

(d) Certificates issued to foreign tankers pursuant to the convention by other nations party thereto shall be accepted by the Secretary as the same force as certificates issued by him. If the Secretary has clear grounds for believing that a foreign tanker required under the convention to be constructed in accordance with Annex C entering ports of the United States or using offshore terminals under United States control does not in fact comply with Annex C, he may request the Secretary of State to seek consultation with the government with which the tanker is registered. If after consultation or otherwise, the Secretary is satisfied that such tanker does not comply with Annex C, he may for this reason deny such tanker access to ports of the United States or to off-shore terminals under United States control until such time as he is satisfied that the tanker has been brought into compliance.

(e) If the Secretary is satisfied that any other foreign tanker which, if registered in a country party to the convention, would be required to be constructed in accordance with Annex C, does not in fact comply with the standards relating to tank arrangement and limitation of tank size of Annex C, then he may deny such tanker access to ports of the United States or to off-shore terminals under United States control.

(6) Section 6 (33 U.S.C. 1005) is renumbered section 7 and is amended to read as follows:

"SEC. 7. (a) Any person who willfully discharges oil or oily mixture from a ship in violation of this Act or the regulations thereunder shall be fined not more than $10,000 for each violation or imprisoned not more than one year, or both.

(b) In addition to any other penalty prescribed by law any person who willfully or negligently discharges oil or oily mixture from a ship in violation of this Act or any regulation thereunder shall be liable to a civil penalty of not more than $10,000 for each violation and any person who otherwise violates this Act or any regulation thereunder shall be liable to a civil penalty of not more than $5,000 for each violation.

(c) A ship from which oil or oily mixture is discharged in violation of this Act or any regulation thereunder is liable for any pecuniary penalty under this section and may be proceeded against in the district court of any district in which the vessel may be found.

(d) The Secretary may assess any civil penalty incurred under this Act or any regulation thereunder and, in his discretion, remit, mitigate, or compromise any penalty. No penalty may be assessed unless the alleged violator shall have been given notice and the opportunity to be heard on the alleged violation. Upon any failure to pay a civil penalty assessed under this Act, the Secretary may request the Attorney General to institute a civil action to collect the penalty. In hearing such action, the district court shall have authority to review the violation and the assessment of the civil penalty de novo."

(7) Section 7 is renumbered section 8.

(8) Section 8 (33 U.S.C. 1007) is renumbered section 9 and is amended—

(A) in subsection (a) by amending the first sentence to read as follows:

"In the administration of sections 1–12 of this Act, the Secretary may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel, facilities or equipment of other Federal agencies or the States.";

(B) in subsection (a) by amending the first part of the second sentence which precedes the first use of the word "shall" to read:

"For the better enforcement of the provisions of said sections, officers of the Coast Guard and other persons employed by or acting under the authority of the Secretary";

(C) in subsection (a) by deleting from the last sentence thereof the words "and of the Bureau of Customs" and the words "in a prohibited zone or in a port of the United States"; and

(D) in subsection (b) by deleting in the first sentence thereof the words "of the Department in which the Coast Guard is operating" and by deleting the second sentence thereof in its entirety.

(9) Section 9 (33 U.S.C. 1008) is renumbered section 10 and is amended—

(A) by amending subsection (c) to read as follows:

"(c) The oil record book shall be completed on each occasion, on a tank-to-tank basis, whenever any of the following operations takes place in the ship:

(1) for tankers:

(i) loading of oil cargo;

(ii) transfer of oil cargo during voyage;

(iii) discharge of oil cargo;

(iv) ballasting of cargo tanks;

(v) cleaning of cargo tanks;

(vi) discharge of dirty ballast;

(vii) discharge of water from slop tanks;

(viii) disposal of residues;

(ix) discharge overboard of bilge water containing oil which has accumulated in machinery spaces while in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate logbook;

(2) for ships other than tankers:

(i) ballasting or cleaning of bunker fuel tanks;

(ii) discharge of dirty ballast or cleaning water from bunker fuel tanks;

(iii) disposal of residues;

(iv) discharge overboard of bilge water containing oil which has accumulated in machinery spaces while in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate logbook. In the event of such discharge or escape of oil or oily mixture as is referred to in section 4 of this Act, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.";

(B) by changing the figure "9" in subsection (d) to read "10"; and

(C) by repealing subsection (f).

(10) Section 10 (33 U.S.C. 1009) is renumbered section 11 and is amended to make the sectional enumeration read as follows:

"Sections 3, 4, 5, 6, 7, 9, and 10."

(11) Section 11 is renumbered section 12 and is amended by deleting the words "any prohibited zone" in subsection (b) thereof and by substituting therefor the words "violation of the convention but outside the territorial sea of the United States".

(12) Section 12 (33 U.S.C. 1011) is repealed.

(13) Sections 14 and 15 are renumbered sections 13 and 14, respectively.

(14) Section 16 (33 U.S.C. 1014) is renumbered section 15 and is amended by adding between the words "provisions of" and the word "the" the words "section 311 of", and by deleting the words "Oil Pollution Act, 1924," and substituting therefor the words "Federal Water Pollution Control Act,".

(15) Section 17 (33 U.S.C. 1015) is repealed.

SEC. 3. (a) Except as provided in subsection (c) of the Section, this amending Act is effective upon the date of its enactment or upon the date amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, adopted by the Assembly of the Inter-Governmental Maritime Consultative Organization on October 21, 1969, October 12, 1971, and October 15, 1971, are ratified or accepted with the advice and consent of the Senate of the United States, whichever is the later date.

(b) Any rights or liabilities existing on the effective date of this Act shall not be affected by the enactment of this Act. Any regulations or procedures promulgated or effected pursuant to the Oil Pollution Act, 1961, as previously amended, remain in effect until modified or superseded under the authority of the Oil Pollution Act, 1961, as amended by this Act. Any reference to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, in any law or regulation shall be deemed to be a reference to the convention as revised or amended by the latest amendments in respect of which the United States has deposited an instrument of ratification or acceptance.

(c) Notwithstanding the foregoing provisions of this Section, subsections (d) and (e) of Section 6 of the Oil Pollution Act, 1961, as amended by Section 2 of this bill, shall be effective upon the date of their enactment or upon the date the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended by the amendments adopted by the Assembly of the Inter-Governmental Maritime Consultative Organization on October 15, 1971, enters into force pursuant to Article XVI of that convention as amended, whichever is later; and no authority shall be exercised pursuant to Article VI bis (3) and (4) of such amendments prior to the effective date of such subsections.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1068. A bill to ratify certain payments made by the United States under the Federal Airport Act, as amended. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, on behalf of myself and the Senator from New Hampshire (Mr. COTTON), I introduce by request, for appropriate reference, a bill to ratify certain payments made by the United States under the Federal Airport Act, as amended, and ask unanimous consent that the letter of transmittal and the section-by-section analysis be printed in the RECORD with the text of the bill.

There being no objection, the material

and bill were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 9, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for introduction and referral to the appropriate Committee is a draft bill

"To ratify certain payments made by the United States under the Federal Airport Act, as amended."

The Federal Airport Act (49 U.S.C. 1101–1120) was amended September 20, 1961, by Public Law 87–255. This amendment, in section 5, authorized the Federal Government to encourage the installation of airport runway approach lights (ALS) by providing up to 75 per centum of the authorized individual project costs. Prior to the enactment of this amendment the Federal Government was authorized to provide up to 50 per centum of individual project costs.

Section 10 of Public Law 87–255 provides that the amendments therein "shall not apply with respect to projects for which amounts have been obligated by the execution of grant agreements before their enactment. With respect to such projects, the Federal Airport Act shall continue to apply as if this Act had not been enacted."

Subsequent to the enactment of these amendments, the then Federal Aviation Agency amended agreements with several ALS project sponsors which had originally been negotiated prior to the enactment date but which had not yet been *completed*. Pursuant to these renegotiated agreements, the Federal Aviation Administration provided *75 per centum* of the authorized project costs instead of the previously authorized *50 per centum*. (See enclosed figures)

Subsequent to the completion of these renegotiated agreements the General Accounting Office and the General Counsel of the Department of Transportation relying on section 10 of P.L. 87–255 determined that the renegotiated agreements are not authorized under existing law, with respect to the increased Federal participation from 50 to 75 per centum.

There are, therefore, two possible alternatives: to seek reimbursement for the overpayments from the several project sponsors involved, or to seek Congressional ratification of the overpayments, which amounts to an approximate total of $530,299.39 for 32 projects. It is felt that the spirit, if not the letter, of the Act was observed in permitting the overpayments; that is, to encourage the installation of ALS systems by the Nation's airports.

The time, difficulty, and expense of instituting reimbursement proceedings, and the other inherent problems, strongly suggest that Congressional ratification of these overpayments is the most appropriate course of action.

We have reviewed the environmental and civil rights implications of this legislation and have determined that there is no adverse effect from the passage of this legislation.

The Office of Management and Budget advises that it has no objection to the submission of this proposed legislation to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

SECTION-BY-SECTION ANALYSIS

Section 1 of the proposed legislation would ratify payments made under the Federal Airport Act, as amended (49 U.S.C. 1101–1120), for all contracts made under section 12 of the Federal Airport Act entered after 21 September 1961 but before 21 January 1969. Such ratification would apply only to allowable projects cost under that act. These dates delineate the time period within which the renegotiated contracts were entered.

Section 2 of the Act limits the ratification to only those payments indicated in Section 1 and specifically excludes all other overpayments, if any.

Section 10(d)(1) grants for "land required for the installation of approach light systems"

REGION, SPONSOR, AND ITEM	
Eastern:	
Baltimore, Md	$2,502.14
Islip, N.Y	3,529.67
Pittsburgh, Pa	24,989.87
Lynchburg, Va	552.00
Subtotal	31,573.68
Southern:	
Birmingham, Ala	78,122.00
Huntsville, Ala	35,831.00
Raleigh-Durham, N.C	4,460.81
Raleigh-Durham, N.C	78.59
Miami, Fla	40,219.00
Miami, Fla	33,211.00
Orlando, Fla	46,404.00
Memphis, Tenn	14,697.43
Bristol, Tenn	17,574.75
Lexington, Ky	10,365.19
Subtotal	280,963.77
Southwestern:	
Oklahoma City, Okla	1,117.15
San Antonio, Tex	23,333.02
San Antonio, Tex	12,136.58
New Orleans, La	4,136.17
Subtotal	40,762.92
Western: None	0
Northwestern: Seattle, Wash	36,065.00
Northeastern:	
Beverly, Mass	1,972.67
Portland, Maine	1,415.39
Subtotal	3,388.06
Central:	
Cedar Rapids, Iowa	7,268.08
Hutchinson, Kans	2,212.73
Omaha, Nebr	4,770.86
Subtotal	14,251.67
Rocky Mountain: None	0
Great Lakes:	
Akron, Ohio	2,175.00
Cleveland, Ohio	7,580.89
Columbus, Ohio	39,793.58
Dayton, Ohio	3,270.11
Indianapolis, Ind	6,436.52
Lansing, Mich	6,088.24
Subtotal	65,344.34
Alaskan: None	0
Pacific: None	0
All regions, section 10(d) (1) total	472,349.44

Section 10(d)(2) grants for "in-runway lighting"

REGION, SPONSOR, AND ITEM	
Eastern: None	0
Southern: None	0
Southwestern: None	0
Western: Oakland, Calif	22,279.49
Northwestern: None	0
Northeastern: None	0
Central: None	0
Rocky Mountain: None	0
Great Lakes: None	0
Alaskan: None	0
Pacific: None	0
All Regions, section 10 (d)(2), total	22,279.49

Section 10(d)(3) grants for "high intensity runway lighting," except those grants for "installation of high intensity lighting on designated instrument landing runways by the Administrator"

REGION, SPONSOR, AND ITEM	
Eastern: None	0
Southern: None	0
Southwestern: None	0
Western: None	0
Northwestern: None	0
Northeastern: None	0
Central: St. Louis, Mo	$35,600.46
Rocky Mountain: None	0
Great Lakes: None	0
Alaskan: None	0
Pacific: None	0
All regions, section 10(d) (3), total, less exception	$35,600.46

Section 10(d)(4) grants for "runway distance markers"

REGION, SPONSOR, AND ITEM	
Eastern: None	0
Southern: None	0
Southwestern: None	0
Western: None	0
Northwestern: None	0
Northeastern: None	0
Central: None	0
Rocky Mountain: None	0
Great Lakes: None	0
Alaskan: None	0
Pacific: None	0
All Regions, section 10(d)(4), total	0
Section 10, grand total	$530,229.39

S. 1068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 10 of Public Law 87–255 (75 Stat. 527), there is hereby ratified and confirmed each payment of the United States made to the sponsor of an airport development project under the Federal Airport Act, as amended (49 U.S.C. 1101–1120), if that payment was made—

(a) Under a grant agreement authorized under section 12 of the Federal Airport Act, as amended, that was—

(1) entered into before September 21, 1961, and

(2) amended after September 21, 1961, but before January 21, 1969; and

(b) For an allowable project cost named in section 5(a) of Public Law 87–255 (75 Stat. 526); and

(c) In an amount equal to more than 50 per centum, but not more than 75 per centum, of that allowable project cost.

SEC. 2. Section 1 of this Act does not apply to a payment made by the United States that otherwise would not be authorized under the Federal Airport Act, as amended, if section 10 of Public Law 87–255 had not been enacted.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1069. A bill to provide for the conservation and management of fisheries and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, on behalf of myself and the Senator from New Hampshire (Mr. COTTON), I introduce by request, for appropriate reference, a bill to provide for the conservation and management of fisheries and for other purposes, and ask unanimous consent that the letter of transmittal, statement of purpose and need, and the section-by-section analysis be printed in the RECORD with the text of the bill.

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

THE SECRETARY OF COMMERCE,
Washington, D.C., February 13, 1973.

HON. SPIRO T. AGNEW,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill "To provide for the conservation and management of fisheries and for other purposes," together with a statement of purpose and need in support thereof and a section-by-section analysis.

We estimate expenditures under this legislation will approximate $100,000 annually during the first five years.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this proposed legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

FREDERICK B. DENT,
Secretary of Commerce.

STATEMENT OF PURPOSE AND NEED

This proposed legislation serves two major purposes:

1. It provides conservation and management authority to regulate United States vessels for fishing beyond the territorial sea;

2. It authorizes the United States to carry out its international obligations under international fisheries agreement.

Experience has shown that unregulated or only partially regulated fishing almost invariably leads to decline of the resource, and corresponding economic hardship for the fisherman. At the present time fishing by United States vessels within the contiguous zone and on the high seas is only partially regulated, either by the States, in which case only the particular State's citizens are affected, or by international treaty in those few instances where treaties exist. This proposed legislation would enable the Federal Government to act in this regard in a manner which would remedy the additional problem of "split jurisdiction", which arises from the welter of jurisdictional zones which exist today. For instance, seaward from the shoreline, the oceans are divided into three jurisdictional zones; the territorial sea, within which fishing is managed by the States pursuant to the grant of jurisdiction in the Submerged Land Act (43 U.S.C. 1301–1315); the contiguous fisheries zone, established by the Act of October 14, 1966, (16 U.S.C. 1091–1094) which, at present, is not effectively regulated by any governmental agency for fisheries management and conservation purposes; and the high seas, in which fishing is unregulated except where treaties apply. In addition, laterally along the coast, the territorial sea is split into different jurisdictions by State boundaries. This multiplicity of jurisdictional zones, each with a different degree or substance of regulation, creates an institutional barrier to the efficient management and utilization of almost all of the important sport and commercial fisheries in which United States vessels engage. This legislation would authorize Federal regulation of United States vessels in all waters beyond the territorial seas for conservation and management purposes, thus unifying and rationalizing conservation programs.

It is, recognized, however, that the several coastal States have strong legitimate interests in the management of fisheries adjacent to their respective territorial seas. It is also beneficial to promote completely unified management of our fishery stocks within the territorial sea, where they are subject to State regulation, and beyond. Therefore, the proposed legislation offers those States, or groups of cooperating States, opportunities for direct participation in the management process, by encouraging them to develop regulations for fisheries beyond the territorial sea. These regulations, upon being approved by the Secretary after opportunity for a public hearing, will be adopted by the Federal Government as Federal regulations in the contiguous fisheries zone and in the high seas beyond the zone.

Useful management of the fisheries also requires, however, that we come to grips with foreign fishing in the high seas beyond the contiguous fisheries zone. This is done presently through a series of international agreements.

The proposed legislation contains specific authority for the United States to carry out its obligations under international fishery agreements, negotiated to resolve specific problems. Several agreements have been negotiated on a bilateral basis with Japan and the Soviet Union since vessels of these countries began fishing off U.S. coasts. An example is the agreement between the United States and Japan on the King Crab Fishery in the eastern Bering Sea, signed November 25, 1964. These bilateral agreements are based on principles similar to those in the Convention, i.e., they include implicit recognition of the special interest of coastal countries in fishery resources adjacent to their coast. The proposed legislation will insure that adequate authority is present for the United States to implement these and other agreements.

In addition to the bilateral agreements referred to above, the United States has been a party to the Convention on Fishing and Conservation of the Living Resources of the High Seas since 1966. There is no specific legislation for the implementation of the Convention. This proposed legislation would provide the specific authority to discharge these treaty obligations.

The Convention came into force for the United States on March 20, 1966, after having been ratified by the required 22 countries. It imposes on all contracting governments the duty to adopt, or to cooperate with other contracting governments in adopting, such measures for their respective nationals as may be necessary to conserve high seas fishery resources. The Convention also asserts the special interest of a coastal country to maintain the productivity of those living resources which may be found on the high seas adjacent to its territorial sea, and requires other contracting governments to recognize that special interest.

Under the Convention, the United States might adopt high seas conservation measures: (1) on a unilateral basis; (2) as a result of an agreement between the United States and other contracting parties; (3) when U.S. fishermen begin fishing on the high seas in areas regulated under the Convention by other contracting governments; and (4) as a result of a decision by an arbitration committee established under the Convention.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill gives a short title for the proposed legislation.

Section 2 defines certain terms used in the bill. The definition of "Fish" preserves the jurisdictional breakdown presently existing between the Departments of Commerce and Interior.

Section 3 sets forth the regulatory authority of the Secretary beyond the territorial sea and the procedural steps necessary for the promulgation of such regulations. Subsection (a) provides the Secretary with authority over foreign vessels but only to the extent that the flag nation has consented to such regulation in an international fishery agreement. Subsection (b) provides the Secretary with authority over United States vessels for three purposes:

(1) to fulfill our international obligations;

(2) for the conservation and management of fishery resources; and

(3) to regulate the taking of contaminated fish.

Relevant economic and social factors may be taken into account in any such regulations in order to maximize the economic and social benefits to be obtained from our fisheries resources. Provisions have been included to insure that the views, suggestions, and objections of interested persons and States will be heard before any regulations are promulgated by the Secretary of Commerce, except when the Secretary finds that an emergency situation requires immediate publication of a rule.

Section 4 makes it clear that the bill will not supersede or invalidate the authority contained in other Federal statutes. Thus, authority in legislation implementing other international conventions concerned with fisheries will continue to be exercised in the manner specified in those acts.

Section 5 provides for the relationship between the States and the Federal Government in regulation of the fishery resources beyond the territorial sea. State regulations may be adopted by the Secretary as Federal regulations, pursuant to subsection 3(b), for application to the contiguous fishery zone and the high seas beyond. Any such regulations become Federal regulations, and must be promulgated in accordance with the procedures in subsection 3(c).

Section 6 states the responsibilities of the Secretary of State under the Convention on Fishing and Conservation of the Living Resources of the High Seas, including the cooperation needed between the Secretary of State and the Secretary of Commerce in order to discharge the obligations arising under the Convention. It also authorizes the Secretary of State to engage in negotiations regarding any other international fishery agreement.

Section 7 sets forth unlawful activities and penalties under the proposed legislation.

Section 8 describes enforcement procedures. These are similar to those found in other statutes implementing treaties concerned with fisheries.

Section 9 is a disclaimer clause which recognizes the authority of a State to continue to regulate its own citizens on fishery matters where such regulation is not contrary to regulations issued under this proposed legislation. This section also makes it clear that this bill does not change the State's present jurisdiction beyond or within the territorial sea.

Section 10 authorizes the appropriation of such sums as may be necessary to carry out the provisions of the proposed legislation.

Section 11 contains severability provisions.

S. 1069

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 "High Seas Fisheries Conservation Act of 1973."

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(a) "International Fishery Agreement" means any bilateral or multilateral agreement to which the United States is a party, dealing with fishery management or conservation, but does not include those provisions of any agreement which deal solely with methods of enforcement at sea.

(b) "Contracting Party" means any government party to an international fishery agreement;

(c) "Fishing" means the catching, taking, harvesting, or attempted catching, taking or harvesting of any species of fish for any purpose, and any activity in support of such taking, catching or harvesting.

(d) "Fish" includes mollusks, crustaceans, marine mammals (except polar bears, walrus, and sea otter) and all other forms of marine animal or plant life, exclusive of birds, including the Continental Shelf fishery resource as defined in the Act of May 20, 1964 (78 Stat. 196);

(e) "Vessel" means every description of watercraft or other contrivance which is used or is capable of use on water for fishing purposes;

(f) "Owner or operator" means any individual, firm, corporation, association, partnership, government or government enterprise which owns, operates, or charters a vessel;

(g) "Fisheries Zone" means the zone contiguous to the territorial sea of the United States which was established by the Act of October 14, 1966 (80 Stat. 908);

(h) "Secretary" means the Secretary of Commerce;

(i) "State" means the several States of the United States; the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam;

(j) "Person" means any individual, corporation, partnership, association, or organization.

REGULATIONS

SEC. 3. (a) The Secretary is authorized to promulgate regulations governing fishing in the fisheries zone and all high seas seaward of such zone by vessels of a party to an international fishery agreement with the United States, pursuant to and for the purposes of such agreement.

(b) The Secretary is also authorized to promulgate regulations governing fishing in the fisheries zone and all high seas seaward of such zone by vessels documented under the laws of the United States, or otherwise registered under the laws of any State, for the purposes of:

(i) fulfilling the international obligations of the United States under any international fishery agreement;

(ii) conserving and managing the fish in such waters in such manner as the Secretary determines will result in the optimum overall nutritional, economic, and social benefits; and

(iii) controlling or prohibiting the fishing for fish which the Secretary determines, in consultation with the Food and Drug Administration, the Environmental Protection Agency, and State sanitation authorities, to be unsanitary for the purpose for which they are intended, on the basis of examination of the fish or the water quality of the marine environment from which such fish were taken.

Regulations under paragraphs (ii) and (iii) of this subsection (b) may designate zones where, and establish periods when, no fishing shall be permitted; establish size and catch limits for any species of fish; prohibit the use of certain types of fishing gear, and prescribe such other measures as the Secretary deems appropriate to carry out such purposes. In making any determination as to appropriate conservation and management measures, the Secretary may take into account relevant economic and social factors, and shall consider whether such measures will unreasonably limit competition. The Secretary may provide by regulation for the issuance of permits related to and in furtherance of such measures, except that such permits shall not be used for revenue purposes.

(c) The promulgation of regulations under this section shall be governed by the following rules:

(i) Before any regulations are promulgated under this section, the Secretary shall, to the extent practicable, consult with other agencies, with the interested States, with persons interested in the conservation of fish in these waters, and in the enhancement of all aspects of the marine fisheries of the United States, for the purpose of obtaining adequate information to develop reasonable and effective regulations: *Provided, however,* That insofar as such regulations are applicable to foreign vessels beyond the fisheries zone, the Secretary shall consult with the Secretary of State, and *Provided further,* That insofar as such regulations involve methods and procedures for enforcement at sea, the Secretary shall consult with the Secretary of the Department in which the Coast Guard is operating.

(ii) The Secretary shall publish in the Federal Register the regulations which he propcses to promulgate for all or part of the waters of the fisheries zone and all high seas seaward of such zone. Interested persons shall be afforded a period of not less than thirty days after such publication within which to submit written data, views, or comments. Except as provided in paragraph (iii) of this subsection, the Secretary may, after the expiration of such period and after consideration of all relevant matters presented, promulgate the regulations with such modifications, if any, as he deems appropriate.

(iii) On or before the last day of a period fixed for the submission of written data, views, or comments, any person who, or State which, may be adversely affected by such proposed regulations may file with the Secretary written objections to the specific provisions of such proposed regulations, stating the grounds therefor, and may request a public hearing on such objections. If the Secretary determines that the person filing objections may be adversely affected, or if a State requests a hearing, the Secretary shall not promulgate regulations with respect to which such objections have been filed until he has taken a final action upon them as provided in paragraph (iv) of this subsection.

(iv) As soon as practicable after the period of filing objections has expired, if the Secretary determines that the person filing objections may be adversely affected, or if a State requests a hearing, the Secretary shall publish in the Federal Register a notice specifying the time and place at which a public hearing shall be held, and the provisions of the regulations to which such objections have been filed and such other provisions as he may designate for consideration and shall hold a public hearing in accordance with 5 U.S.C. 553 for the purpose of receiving information relevant to the matters identified in the notice of hearing. If two or more persons or States request hearings within the prescribed period and the Secretary deems such hearing appropriate, the Secretary may, as he deems appropriate, consolidate such hearings in the interests of time and economy. At the hearing any interested person or State may be heard. As soon as practicable after the completion of the hearing, the Secretary shall act upon such objections and make his determinations public and shall promulgate the regulations with such modifications, if any, as he deems appropriate.

(v) The Secretary may from time to time revise such regulations in accordance with the procedures prescribed in paragraphs (i) through (iv) of this subsection.

(vi) Notwithstanding the provisions of paragraphs (ii) through (v) of this subsection, the Secretary may waive the requirements for notice and public hearing detailed herein, if he finds (and incorporates the finding and a brief statement of the reasons therefor in the publication of the rule) that, due to an emergency situation, notice and hearing thereon are impracticable, unnecesary, or contrary to the public interest. Written objections may be submitted within 30 days of the effective date of the emergency regulation. If any such written objection is so received, the Secretary shall, not later than 40 days after the effective date of the emergency regulation, initiate the procedures in paragraphs (ii) through (iv). The emergency regulation shall remain in effect for 90 days beyond the date on which the Secretary publishes the notice of proposed rulemaking required in paragraph (ii), unless the Secretary terminates the regulation by notice in the Federal Register at any earlier date.

APPLICATION TO OTHER TREATIES, CONVENTIONS, AND LAWS

SEC. 4. The provisions of this Act shall be deemed to be in addition to and not in contravention of the provisions of any existing international fishery agreement, or any statute implementing the same, which may apply to the subject matter of this Act.

STATE REGULATIONS

SEC. 5. (a) In the exercise of his powers under subsection 3(b), and subject to subsection (c) of this section, the Secretary may, at any time, adopt as Federal regulations the regulations of any State or group of States regarding fishing adjacent to such State or States in the fisheries zone or in all high seas seaward of such zone, if he finds that such regulations will achieve the objectives of subsection 3(b), taking into account, as he deems appropriate, uniformity with other regulations.

(b) Any regulations adopted pursuant to this section shall become Federal regulations, and shall be subject to modification, amendment, revision, or revocation in the same manner as regulations adopted pursuant to subsection 3(c) of this Act.

(c) For the purposes of subsection (a) of this section, any State or group of States may submit regulations to the Secretary for adoption. The Secretary shall within 180 days indicate his approval or disapproval of such regulations with notice thereof to the State or group of States which submitted them. In the event of disapproval, such notice shall specify the reason therefor, and the State or group of States which submitted the regulations shall be entitled, within 60 days of the receipt of notice of disapproval, to request a hearing on the matter. All interested parties may be heard at such hearing, and evidence may be offered. The burden shall be on the State or group of States to show that the regulations should be approved. Unless the Secretary shall have indicated his disapproval of such regulations within the 180-day period specified above, he shall proceed promptly with respect to such regulations in accordance with the procedures set forth in subsection 3(c) of this Act.

(d) The Congress hereby consents to any compact or agreement which is not in conflict with any law or treaty in force of the United States, between any two or more States for the purpose of preparing regulations for submission to the Secretary in accordance with this section. The right to alter, amend, or repeal this subsection or the consent granted herein is expressly reserved to the Congress.

AGREEMENTS WITH FOREIGN COUNTRIES

SEC. 6. (a) The Secretary of State, in consultation with the Secretary, and when appropriate, with the Secretary of the Department in which the Coast Guard is operating, may engage in negotiations with any contracting party to the Convention on Fishing and Conservation of the Living Resources of the High Seas in regard to measures for the conservation of the living resources of the high seas, when such negotiations are necessary to carry out the purposes of articles 4, 6, 7, 8, and 12 of the aforesaid Convention and with any contracting party to any other international fishery agreement.

(b) The Secretary of State shall notify the Secretary of receipt of the following pursuant to the aforesaid Convention:

(1) Communications from the Director-General of the Food and Agriculture Organization of the United Nations, as provided in article 5(1) of the Convention;

(2) Notice of the adoption of conservation measures by any contracting party pursuant to article 7(1) of the Convention;

(3) Notice of findings of a Special Commission provided for by article 9 of the Convention;

(4) Notification of the withdrawal of a conservation measure by the contracting party initially adopting such measures; and

(5) All other communications related to the duties of the Secretary under the Convention.

(c) The Secretary of State shall, upon notification from the Secretary of the promulgation of regulations pursuant to subsection 3(a) of this Act for waters of the high seas seaward of the fisheries zone, notify the Director-General of the Food and Agriculture Organization of the United Nations and any Contracting party to the aforesaid Convention whose nationals fish in the waters covered by such regulations of their contents. The Secretary of State, in consultation with the Secretary, is authorized to enter into agreements with any contracting party to the aforesaid Convention for the implementation of regulations adopted by the United States or by such contracting party pursuant to the aforesaid Convention in waters beyond the respective jurisdiction of any such contracting party. Such agreements may provide for authorization of designated personnel of a contracting party to act as enforcement officers in implementing such regulations.

(d) The Secretary of State, in consultation with the Secretary, may, with regard to the aforesaid Convention:

(1) Enter into an agreement with any contracting party for the establishment of a Special Commission pursuant to article 9 of the Convention, and for the payment of costs and expenses of such Special Commission.

(2) Appoint the United States member to the Special Commission; and

(3) Appoint, upon the request of any contracting party to the Convention or upon the request of the Secretary-General of the United Nations, members to a Special Commission invoked to resolve a dispute between contracting parties to the Convention and to which dispute the United States is not a party.

PROHIBITIONS—PENALTIES

SEC. 7. In the case of vessels not documented under the laws of the United States or otherwise registered under the laws of any State, penalties or prohibitions with respect to fishing in all high seas seaward of the fisheries zone will only be applied if pursuant to and for the purposes of an applicable international fishery agreement.

(a) Any owner or operator of a vessel who knowingly engages in fishing in violation of any regulation pursuant to this Act shall, upon conviction, be fined not more than $25,000, and for each subsequent offense of a similar nature, in addition to a fine, the fish or the fishing gear on board such vessel, or both, or the monetary value thereof as determined by the court, may also be ordered forfeited in whole or in part to the United States or otherwise disposed of by the court.

(b) Whoever knowingly ships, transports, purchases, sells, offers for sale, imports, exports, or has in custody, possession or control any fish taken in violation of such regulations shall, upon conviction, be fined not more than $5,000, and for each subsequent offense of a similar nature, not more than $10,000.

(c) Whoever knowingly

(1) fails to make, keep, submit, or furnish any record or report required by regulation to be made, kept, submitted, or furnished;

(2) refuses to permit anyone authorized pursuant to section 8 to board a vessel for the purposes of inspecting the catch and fishing gear, or resists any lawful arrest;

(3) refuses to permit anyone authorized pursuant to section 8 to inspect any record or report required by regulation to be made, kept, submitted, or furnished, shall, upon conviction, be fined not more than $10,000;

(d) Any vessel used in fishing in violation of any regulation promulgated under this Act shall be liable for a civil penalty of not more than $10,000. Such penalty shall be assessed by the Federal District Court in the district having jurisdiction over the vessel. Clearance of a vessel against which a penalty has been assessed, from a port of the United States may be withheld until such penalty is paid or until a bond or otherwise satisfactory surety is posted. Such penalty shall constitute a maritime lien on such vessel which may be recovered by action in rem in the Federal District Court of the United States having jurisdiction over the vessel.

ENFORCEMENT

SEC. 8. This section applies only under the express terms of section 3. For vessels other than those documented under the laws of the United States or otherwise registered under the laws of any State, enforcement on all high seas beyond the fisheries zone is authorized only when pursuant to and for the purposes of an applicable international fishery agreement.

(a) The provisions of this Act and the regulations issued thereunder shall be enforced by the Secretary, and the Secretary of the department in which the Coast Guard is operating. The Secretary and the Secretary of the department in which the Coast Guard is operating may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or, for the purpose of enforcement with respect to any vessel in the fisheries zone, or, wherever found, with respect to any vessel documented under the laws of the United States or otherwise registered under the laws of any State, any State agency, in carrying out the provisions of this Act and the regulations issued thereunder, including those relating to enforcement.

(b) Anyone authorized pursuant to subsection (a) of this section to enforce the provisions of this Act and the regulations issued thereunder may—

(1) Board and inspect any vessel documented under the laws of the United States or otherwise registered under the laws of any State or any other vessel subject to the jurisdiction of the United States pursuant to subsection 3(a), and its catch and gear upon the waters of the fisheries zone or upon all high seas seaward of such zone;

(2) Arrest any person, with or without a warrant, when he has reasonable cause to believe that such person has violated this Act or any regulation issued hereunder.

(3) Execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) Seize all fish and fishing gear found on board any vessel which violates the provisions of this Act or any regulations issued thereunder wherever found. Any fish and fishing gear so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable in a manner prescribed by regulations.

(c) State officers authorized pursuant to subsection (a) to function as Federal law enforcement agents shall not be considered to be Federal employees of the United States for the purposes of any laws administered by the Civil Service Commission.

(d) The Federal District Courts shall have exclusive jurisdiction over all cases arising under this Act, and may issue all warrants or other processes as may be necessary. In the case of Guam, actions arising under this Act may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions.

(e) Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the respondent or claimant of the fish a bond or other surety satisfactory to the court, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such case. Such bond or other surety shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

STATE JURISDICTION

SEC. 9. Nothing in this Act shall be construed to

(a) restrict the authority of any State to regulate its citizens regarding fishery matters where such regulation is not contrary to regulations adopted pursuant to this Act;

(b) extend the jurisdiction of the States to the natural resources beneath and in the waters beyond the territorial seas of the United States, or to diminish their jurisdiction to such resources beneath and in the waters of the territorial seas of the United States.

APPROPRIATIONS

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEVERABILITY

SEC. 11. The provisions of this Act shall be severable and if any part of the Act is declared unconstitutional or the applicability thereof is held invalid, the constitutionality of the remainder of the applicability thereof shall not be affected thereby.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S.1070. A bill to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, on behalf of myself and the Senator from New Hampshire (Mr. COTTON), I introduce by request, for appropriate reference, a bill to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 15, 1973.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill, "To implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969."

The proposed bill would, as stated in the

title, implement the Convention, which was ratified by the Senate on September 20, 1971. The Convention permits a coastal nation to take whatever action it deems necessary to prevent, mitigate or eliminate a threat of oil pollution resulting from a maritime accident beyond that coastal states' territorial sea. That authority is subject to reasonable safeguards. The Convention addresses internationally some of the types of issues which arose in 1967 following the grounding of the *Torrey Canyon* off the southeast coast of England.

The bill places the authority for action in the Secretary of the department in which the Coast Guard is operating. In appropriate circumstances, actions could be taken against United States and foreign vessels. Exercise of that authority is conditioned by the requirement for an express determination by the Secretary that there exists a grave and imminent danger to the coastline or related interests of the United States from pollution or threat of pollution of the sea by oil. The bill provides necessary regulatory authority for the Secretary and sanctions for the effective enforcement of that authority.

The Secretary would be authorized to use the revolving fund established pursuant to the Federal Water Pollution Control Act as one means of funding extraordinary Federal activities under the bill. The revolving fund is now available for Federal clean-up of oil and related activities, in areas subject to United States jurisdiction. Activities on the high seas under this bill will be similar.

No effort is made in the Convention or this bill to articulate the various types of actions which could be taken. It is not possible to define all the possible incidents because their specific nature may become known only as an emergent situation develops. Under those circumstances, the full exercise of Executive Branch discretion should be available. At the same time, however, the Convention and the proposed bill contain a number of constraints to assure that the Secretary's actions will be reasonable under the circumstances. Some specific criteria upon which actions must be based are included.

It would be appreciated if you would lay the proposed bill before the Senate. A similar bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that enactment of this proposal would be consistent with the Administration's objectives.

Sincerely,

CLAUDE S. BRINEGAR.

S. 1070

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 "Intervention on the High Seas Act".

SEC. 2. As used in this Act—

(1) "Ship" means—

(A) any sea going vessel of any type whatsoever, and

(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the sea bed and the ocean floor and the subsoil thereof;

(2) "Oil" means crude oil, fuel oil, diesel oil, and lubricating oil;

(3) "Convention" means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;

(4) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands.

SEC. 3. Whenever a ship collision, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to the ship or her cargo creates, as determined by the Secretary, a grave and imminent danger to the coastline or related interests of the United States from pollution or threat of pollution of the sea by oil which may reasonably be expected to result in major harmful consequences, the Secretary may, except as provided for in section 10, without liability for any damage to the owners or operators of the ship, to her cargo or crew, or to underwriters or other parties interested therein, take measures on the high seas, in accordance with the provisions of the Convention and this Act, to prevent, mitigate, or elimnate that danger.

SEC. 4. In determining whether there is grave and imminent danger of major harmful consequences to the coastline or related interests of the United States, the Secretary shall consider the interests of the United States directly threatened or affected including but not limited to, fish, shellfish and other living marine resources, wildlife, coastal zone and estuarine activities, and public and private shorelines and beaches.

SEC. 5. Upon a determination under section 3 of this Act of a grave and imminent danger to the coastline or related interests of the United States, the Secretary may—

(1) coordinate and direct all public and private efforts directed at the removal or elimination of the threatened pollution damage;

(2) directly or indirectly undertake the whole or any part of any salvage or other action he could require or direct under subsection (1) of this section; and

(3) remove, and, if necessary, destroy the ship and cargo which is the source of the danger.

SEC. 6. Before taking any measure under section 5 of this Act, the Secretary shall—

(1) consult, through the Secretary of State, with other countries affected by the marine casualty, and particularly with the flag country of any ship involved;

(2) notify without delay the Administrator of the Environmental Protection Agency and any other persons known to the Secretary, or of whom he later becomes aware, who have interests which can reasonably be expected to be affected by any proposed measures; and

(3) consider any views submitted in response to the consultation or notification required by subsections (1) and (2) of this section.

SEC. 7. In cases of extreme urgency requiring measures to be taken immediately, the Secretary may take those measures rendered necessary by the urgency of the situation without the prior consultation or notification as required by section 6 of this Act or without the continuation of consultations already begun.

SEC. 8. (a) Measures directed or conducted under this Act shall be proportionate to the damage, actual or threatened, to the coastline or related interests of the United States and may not go beyond what is reasonably necessary to prevent, mitigate, or eliminate that damage.

(b) In considering whether measures are proportionate to the damage the Secretary shall, among other things, consider—

(1) the extent and probability of imminent damage if those measures are not taken;

(2) the likelihood of effectiveness of those measures; and

(3) the extent of the damage which may be caused by those measures.

SEC. 9. In the direction and conduct of measures under this Act the Secretary shall use his best endeavors to—

(1) assure the avoidance of risk to human life;

(2) render all possible aid to distressed persons, including facilitating repatriation of ship's crews; and

(3) not unnecessarily interfere with rights and interests of others, including the flag state of any ship involved, other foreign states threatened by damage, and persons otherwise concerned.

SEC. 10. (a) The United States shall be obliged to pay compensation to the extent of the damage caused by measures which exceed those reasonably necessary to achieve the end mentioned in section 3.

(b) Actions against the United States seeking compensation for any excessive measures may be brought in the United States Court of Claims, in any District Court of the United tSates, and in those courts enumerated in section 460 of title 28, United States Code. For purposes of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii, and the Trust Territory of the Pacific Islands shall be included within the judicial districts of both the District Court of the United States for the District of Hawaii and the District Court of Guam.

SEC. 11. The Secretary of State shall notify without delay foreign states concerned, the Secretary-General of the Inter-Governmental Maritime Consultative Organization, and persons affected by measures taken under this Act.

SEC. 12. (a) Any person who—

(1) willfully violates a provision of this Act or a regulation issued thereunder; or

(2) willfully refuses or fails to comply with any lawful order or direction given pursuant to this Act; or

(3) willfully obstructs any person who is acting in compliance with an order or direction under this Act, shall be fined not more than $10,000 or imprisoned not more than one year, or both.

(b) In a criminal proceeding for an offense under paragraphs (1) or (2) of subsection (a) of this section it shall be a defense for the accused to prove that he used all due diligence to comply with any order or direction or that he had reasonable cause to believe that compliance would have resulted in serious risk to human life.

SEC. 13. (a) The Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, may nominate individuals to the list of experts provided for in Article III of the Convention.

(b) The Secretary of State, in consultation with the Secretary, shall designate or nominate, as appropriate and necessary, the negotiators, conciliators, or arbitrators provided for by the Convention and the Annexes thereto.

SEC. 14. No measures may be taken under authority of this Act against any warship or other ship owned or operated by a country and used, for the time being, only on government non-commercial service.

SEC. 15. This Act shall be interpreted and administered in a manner consistent with the Convention and other international law. Except as specifically provided, nothing in this Act may be interpreted to prejudice any otherwise applicable right, duty, privilege or immunity or deprive any country or person of any remedy otherwise applicable.

SEC. 16. The Secretary may issue reasonable rules and regulations which he considers appropriate and necessary for the effective implementation of this Act.

SEC. 17. The revolving fund established under section 311(k) of the Federal Water Pollution Control Act shall be available to the Secretary for Federal actions and activities under section 5 of this Act.

SEC. 18. This Act shall be effective upon

the date of enactment, or upon the date the Convention becomes effective as to the United States, whichever is later.

By Mr. HARTKE (for himself, Mr. RANDOLPH, Mr. HUGHES, and Mr. CRANSTON):

S. 1076. A bill relating to the authority of the Administrator of Veterans' Affairs to readjust the schedule of ratings for the disabilities of veterans; to the construction, alteration, and acquisition of hospitals and domiciliary facilities; to the closing of hospital and domiciliary facilities and regional offices; and to the transfer of real property under the jurisdiction or control of the Administrator of Veterans' Affairs. Referred to the Committee on Veterans' Affairs.

Mr. HARTKE. Mr. President, today I introduce the Veterans' Administration Accountability Act of 1973, a bill which is intended to prevent arbitrary action by the executive branch and restore a proper balance between it and the Congress.

Vital decisions affecting the well-being of our Nation's veterans are too often being made by faceless bureaucrats who answer to no one but themselves. These are men whose names are rarely known and when they are identified, refuse to appear before Congress to justify decisions that they and they alone have made. Meanwhile, officials at the Veterans' Administration who often have little or no say in the decisions arrived at are left with the task of attempting to defend these proposals or accepting the blame when certain outrageous schemes go awry. The end result of this government without accountability is all too evident and stark. The most notorious example was the recent plan by the bureaucrats to cut $160 million out of disability compensation payments going to seriously disabled veterans. This was a decision arrived at by men who had never appeared before this committee and who probably never will. Faced with the prospect of unilateral action by the executive branch in disability ratings and its unrestricted authority to change them at will, I introduced S. 882 which would require congressional agreement to any proposed changes in the disability rating schedule. But, I am now convinced that the threat posed to our Nation's veterans calls for even more comprehensive legislation such as embodied in this bill.

Under the Veterans' Administration Accountability Act of 1973, other major changes affecting our veteran population will not be permitted without prior submission to Congress and no change will be effective if either House by resolution within 90 days of submission of these proposals expresses its disapproval of these changes. Under this bill, no Veterans' Administration hospital, domiciliary, or regional office may be closed without prior submission to Congress. The threat to the VA hospital system by certain bureaucrats has long been known and now the fiscal 1974 budget contains vague and as yet unrevealed plans to "realine" VA regional offices and to cut back 1,500 employees in the Department of Veterans' Benefits. I have strong reason to believe that plans are currently being made which will drastically cut back the number of personnel assigned to VA regional offices in this country and that many will be closed. This, of course, will only serve to make the Veterans' Administration even more remote from those they are obligated by law to serve.

Disposition of thousands of acres of VA land which has been the subject of increased activity by the executive branch in recent years would also require submission to Congress if the transfer were a substantial one. Under this bill, the executive branch would also be required to submit proposals and plans to Congress with respect to construction or major alterations of VA hospitals. Finally, the executive branch, as under S. 882, would be required to submit to Congress any proposed changes in the disability rating schedule.

The bill which I submit today is not intended and would not have the effect of interfering with administrative discretion. No prior action would be required on the part of Congress to implement certain changes. What is required under this bill is that Congress be fully informed in advance of any major changes and further that it have the power to halt those changes which it regards as arbitrary or unwise.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD following my remarks.

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

S. 1076

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 "Veterans' Administration Accountability Act of 1973".

SEC. 2. The last sentence of section 355 of title 38, United States Code, is amended by inserting before the period a comma and the following: "but no change or readjustment in this schedule of ratings may be made by the Administrator after December 31, 1972, unless notice of such proposed change or readjustment is first submitted to the Congress in writing and, prior to the expiration of 90 calendar days of continuous session of Congress following the date on which notice of the proposed change or readjustment was submitted, neither House of Congress has adopted a resolution stating in substance that that House does not favor the proposed change or readjustment. For the purpose of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90-day period".

SEC. 3. Section 5001 of title 38, United States Code, is amended by adding at the end thereof the following:

"(g) (1) No funds may be appropriated for the construction of any hospital or domiciliary facility or for the acquisition of any such facility involving an expenditure in excess of $100,000, and no funds may be appropriated for the alteration of any such facility involving an expenditure in excess of $500,000, unless notice of the proposed construction, acquisition, or alteration is first submitted to the Congress in writing, and, prior to the expiration of 90 calendar days of continuous session of Congress following the date on which notice of such proposed construction, acquisition, or alteration was submitted, neither House of Congress has adopted a resolution stating in substance that the House does not favor the proposed construction, acquisition, or alteration, as the case may be. For the purpose of this paragraph—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90-day period.

"(2) In order that the Congress may be appropriately informed regarding any such proposed construction, acquisition, or alteration, the Administrator shall transmit to Congress a prospectus of the proposed project, including, but not limited to, (A) a brief description of the facilities to be constructed, altered, or acquired, and (B) the location of the project, and an estimate of the maximum cost of the project.

"(3) The estimated maximum cost of any project as set forth in any prospectus (and not disapproved as provided in paragraph (1)) may be increased by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction or alteration costs, as the case may be, from the date of transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

"(4) This subsection and subsection (h) of this section shall not apply to any project for construction, acquisition, or alteration (A) with respect to which any funds were appropriated before the date of enactment of this subsection, or (B) after any funds have been appropriated with respect to any such project after the date of enactment of this subsection.

"(h) (1) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a prospectus of each proposed project to alter any hospital or domiciliary facility involving an expenditure in excess of $100,000 but equal to or less than $500,000. In the case of each such proposed project, such prospectus shall include, but not be limited to, (A) a brief description of the facilities to be altered, and (B) an estimate of the maximum cost of the project.

"(2) No funds may be appropriated for the alteration of any hospital or domiciliary facility involving an expenditure in excess of $100,000 but equal to or less than $500,000, unless (A) a prospectus with respect thereto as required by paragraph (1) of this subsection is submitted during the session of the Congress in which such appropriation is proposed to be made, and (B) a period of 30 days has expired since the date on which the Administrator submitted such prospectus to the committees referred to in paragraph (1)."

SEC. 4. (a) Part IV of title 38, United States Code, is amended by adding at the end thereof a new chapter as follows:

"Chapter 63—

CLOSING OF HOSPITAL AND DOMICILIARY FACILITIES AND REGIONAL OFFICES

"Sec.

"3601. Closing of hospital and domiciliary facilities and regional offices; notice to Congress.

"§ 3601. Closing of hospital and domiciliary facilities and regional offices; notice to Congress

"No hospital or domiciliary facility over which the Administrator has direct and exclusive jurisdiction and which is in operation on or after the date of enactment of this section and no Veterans' Administration regional office which is in operation on or after the date of enactment of this section shall be closed unless notice of the proposed closing is first submitted to the Congress in writ-

ing and, prior to the expiration of 90 calendar days of continuous session of Congress following the date on which notice of the proposed closing was submitted, neither House of Congress has adopted a resolution stating in substance that that House does not favor the proposed closing."

(b) The table of chapters at the beginning of title 38, United States Code, and Part IV of such title are each amended by adding immediately below

"61. Penal and Forfeiture Provisions... 3501"

the following:

"63. Closing of Hospital and Domiciliary Facilities and Regional Offices ..... 3601".

SEC. 5. (a) Part VI of title 38, United States Code, is amended by adding at the end thereof a new chapter as follows:

"Chapter 87—Transfer of real property

"Sec.

"5231. Transfer of real property; notice to Congress.

"§ 5231. Transfer of real property; notice to Congress.

"Notwithstanding any other provision of law, no real property under the jurisdiction or control of the Veterans' Administration may be transferred (by sale, lease, or otherwise) to any other department or agency of the Federal Government, to any State or subdivision thereof, to any territory or possession of the United States, or to any public or private person or other entity—

"(1) in any case in which the fair market value of such property (including all improvements to such property) exceeds $100,000 or the area thereof exceeds 100 acres unless notice of the proposed transfer is first submitted to the Congress in writing and, prior to the expiration of 90 calendar days of continuous session of Congress following the date on which notice of the proposed transfer was submitted, neither House of Congress has adopted a resolution stating in substance that that House does not favor the proposed transfer; or

"(2) in any case in which the fair market value of such property (including all improvements to such property) is $100,000 or less and the area thereof is 100 acres or less, unless written notice of the proposed transfer of such property is given to the Committees of Veterans' Affairs of the Senate and the House of Representatives at least 30 days prior to the transfer of such property. For purposes of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90-day period."

(b) The table of chapters at the beginning of title 38, United States Code, and Part VI of such title are each amended by adding immediately below:

"85. Disposition of Deceased Veterans' Personal Property..... 5210"

the following:

"87. Transfer of Real Property..... 5231".

By Mr. DOMINICK:

S. 1078. A bill to authorize appropriations for the activities of the National Science Foundation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. DOMINICK. Mr. President, just a year ago President Nixon sent to the Congress his first message on science and technology. In that message of March 15, 1972, he spoke of a "new Federal strategy" that would refocus scientific research and technology on domestic needs. At the same time, he made clear the administration's recognition that "basic research in both the public and private sectors today is essential to our continuing progress tomorrow."

The authorization bill that I am introducing today for the National Science Foundation will enable that agency to play a major role with respect to both elements of this strategy. It will make it possible for the National Science Foundation to continue its crucial support of research at the frontiers of our knowledge, conducted primarily in the Nation's universities and nonprofit organizations. At the same time, the National Science Foundation will be able to carry forward the important mission assigned to it by the President in that same message a year ago—that of drawing "on all sectors of the scientific and technological community in working to meet the significant domestic challenges."

This bill authorizes $582.6 million for the National Science Foundation's programs in the coming year, including $3 million for the special foreign currency appropriation. These requested funds, plus the sum of $58.9 million to be carried forward from fiscal year 1973, will make possible a total program level for the National Science Foundation of $641.5 million in fiscal year 1974. This is an increase of $26.5 million over the expected level of $615.0 million this year.

The programs accorded the highest priority in the proposed Foundation budget are the research programs—both those that promote fundamental research in the long-range national interest and those that focus scientific research on domestic needs.

The Foundation's basic research support, with a proposed $14 million increase next year, will continue to include scientific research projects; 10 major national and special research programs, including the U.S. Antarctic and Arctic programs; the ocean-sediment coring program; five national research centers in astronomy and atmospheric sciences, and various other research activities. The program of Research Applied to National Needs—RANN—directed at finding practical solutions to problems of national importance, will continue this significant work, with increased emphasis devoted to solar power, earthquake engineering, and technology assessment. An increase of $9.2 million is budgeted for this effort.

Two special research programs, to which the President specifically referred in his science message as part of the new Federal effort to strengthen the economy and improve the quality of life, were begun in 1973 and will be continued in the coming year. These are the experimental R. & D. incentives program and the national R. & D. assessment program. The incentives program focuses specifically on identifying barriers that exist in the innovation process and finding means for overcoming these barriers. The assessment program is designed to provide policymakers with information on how science and technology contribute to the achievement of national goals.

The Foundation's restructed science education program for fiscal year 1974 will be increased to $60 million, or $12 million above the fiscal year 1973 level. New programs have been developed to meet changing educational requirements in the 1970's and beyond. They are designed to increase science education effectiveness, to provide greater flexibility of scientific and technical manpower to meet changing requirements of the society, and to improve the general public's understanding of science and the interactions of science and technology with society.

All of these programs taken together, in the words of Dr. H. Guyford Stever, National Science Foundation's Director, "provide for continued strong support for science in the United States with an effective balance between research and education programs."

Mr. President, it is my understanding that the timing of the decision to transfer the responsibilities and functions of the Office of Science and Technology precluded its incorporation in the National Science Foundation's budget. The Foundation is now the focal point for coordinating our Federal research and development effort and will have the increased duty of advising the President, the Domestic Council and OMB on science and technology matters. Testimony before the National Science Foundation Subcommittee on this legislation could very well indicate the need for an upward adjustment in the authorization to compensate for National Science Foundation's increased responsibilities.

Mr. President, I ask unanimous consent that the bill and a sectional analysis of this legislation be printed in the RECORD.

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

S. 1078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending June 30, 1974 to enable it to carry out its powers and duties under the National Science Foundation Act of 1950, as amended, and under title IX of the National Defense Education Act of 1958, out of any money in the Treasury not otherwise appropriated, $579,600,000.

SEC. 2. In addition to such sums as are authorized by section 1 of this Act, there are authorized to be appropriated to the National Science Foundation for the fiscal year ending June 30, 1974 such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement or other employee benefits authorized by law, or other non-discretionary costs.

SEC. 3. Appropriations made pursuant to this Act may be used, but not to exceed $5,000, for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 4. In addition to such sums as are authorized by sections 1 and 2, not to exceed $3,000,000 is authorized to be appropriated for fiscal year ending June 30, 1974, for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 5. Appropriations made pursuant to authority provided in this Act shall remain available for obligation, for expenditure, or

for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

SEC. 6. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payments to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

(c) The programs referred to in subsections (a) and (b) are as follows:

(1) The programs authorized by the National Science Foundation Act of 1950; and

(2) The programs authorized under title IX of the National Defense Education Act of 1958 relating to establishing the Science Information Service.

(d)(1) Nothing in this Act, or any Act amended by this Act, shall be construed to prohibited any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.

SEC. 7. This Act may be cited as the "National Science Foundation Authorization Act of 1974."

SECTIONAL ANALYSIS OF NATIONAL SCIENCE FOUNDATION FY 74 AUTHORIZATION BILL

Sec. 1—This section authorizes appropriations to the National Science Foundation for fiscal year 1974 in the amount of $579,600,000.

Sec. 2—This section authorizes, in addition to the funds authorized by section 1, the appropriation of such additional amounts as may be necessary to cover increases in Federal pay scales and related costs such as retirement and other employee benefits.

Sec. 3—This section authorizes an allowance of up to $5,000 for official consultation, representation, and other extraordinary expenses to be expended at the discretion of the Director.

Sec. 4—This section authorizes, in addition to the funds authorized by sections 1 and 2, an appropriation for fiscal year 1974 not to exceed $3,000,000 for expenses of the National Science Foundation incurred outside of the United States to be financed from foreign currencies which are determined by the Treasury Department to be in excess of the normal requirements of the United States.

Sec. 5—This section provides that appropriations made pursuant to this Act shall remain available for obligation and expenditure for such period, or periods, of time as may be specified in appropriation acts.

Sec. 6—This section outlines certain conditions under which institutions of higher education are to deny or withdraw assistance, for a period of two years under specified programs, from individuals involved in acts which constitute substantial disruptions to such institutions.

Sec. 7—This section permits the citation of the Act as the "National Science Foundation Authorization Act of 1974."

By Mr. FONG:

S. 1079. A bill to establish an Advisory Commission on the Reconstruction and Redevelopment of Southeast Asia. Referred to the Committee on Foreign Relations.

ADVISORY COMMISSION ON THE RECONSTRUCTION AND REDEVELOPMENT OF SOUTHEAST ASIA

Mr. FONG. Mr. President, I am introducing today a bill designed to establish an Advisory Commission on the Reconstruction and Redevelopment of Southeast Asia.

My bill will authorize the Commission to:

Formulate broad and comprehensive recommendations as to the extent and kind of assistance that the United States should provide for the reconstruction and redevelopment of the war-torn countries of Southeast Asia;

Receive the views of the American people and try to forge them into realistic and practical recommendations;

Solicit the views of the Members of Congress, who control the pursestrings, on economic and humanitarian assistance;

Assess the availability of manpower technical know-how which can be spared for reconstruction efforts;

Promulgate guidelines for computing cost-benefit ratio for reconstruction and redevelopment projects, inasmuch as our country has been experiencing substantial budgetary deficits and our domestic financial needs are increasing at a rapid and growing rate;

Establish the priorities of our reconstruction and redevelopment assistance for Indochina;

Determine whether aid should be channeled through multinational organizations or be given on a bilateral basis or both.

The Advisory Commission on the Reconstruction and Redevelopment of Southeast Asia will be composed of citizens from all segments of our country. Its membership will include the following from the executive branch of Government:

Secretary of State.

Secretary of Agriculture.

Secretary of Commerce.

AID Administrator.

President of the Export-Import Bank.

President of the Overseas Private Investment Corporation.

The legislative branch will be represented by eight Senators appointed by the Vice President and eight Representatives appointed by the Speaker.

The public sector will be represented by 10 outstanding Americans appointed by the President with the advice and consent of the Senate. This group will include individuals representing such fields as business, labor, education, medicine, et cetera.

Mr. President, in introducing this measure, I am confident that many Americans are willing to consider a program of assistance to the people of the war-torn countries of Southeast Asia, to the extent this is possible and practical within the limits of our fiscal ability to carry out this humanitarian undertaking.

Two Presidents of the United States have gone on record favoring U.S. assistance to help rebuild Indochina, including North Vietnam. As long ago as 1965, President Johnson said that he would ask Congress for $1 billion for the reconstruction of Indochina if North Vietnam would agree to negotiate.

On February 9, last year, President Nixon said in a message to Congress, entitled "The State of United States Foreign Policy," that—

> We are prepared to undertake a massive $7.5 billion 5-year reconstruction program as part of an overall agreement, in which North Vietnam could share up to two and a half billion dollars.

Despite these two pledges made by Presidents Johnson and Nixon in behalf of the American people, no one really knows just how much the American taxpayers are willing to contribute toward a Marshall plan for Indochina.

In addition, no one really knows what kind of a reception the President's program is going to receive in the Halls of Congress.

Mr. President, because the legislative branch of Government is coequal to the executive branch, and because Congress has the power to authorize and appropriate the expenditures of any Federal funds for any purpose, I firmly believe that Congress should be more involved in the initial stages of determining the priorities and direction of an assistance program to Southeast Asia.

I think it would be in the best interest of a Marshall plan for Indochina if Members of Congress, in advance, participate in formulating our national policy on the amount and kind of assistance the United States should render.

Even before the sounds of gunfire and exploding bombs had subsided on the Vietnamese battlefield, the executive branch was already in the process of developing plans for the reconstruction and redevelopment of war-shattered Indochina.

We know the great contribution the Marshall plan in Europe made to peace. Just as it did in Europe after World War II, it is possible American aid to

help repair the devastation suffered by both our allies and enemies in Southeast Asia will contribute to peace in Asia and the Pacific.

How tragic it would be if the Congress should fight, attack, and delay the President's proposals to assist the people of Indochina because there was not enough consultation or exchange of ideas between those who plan and execute our programs on the one hand, and those who finance those programs on the other.

Recent experience with the Foreign Assistance Act, particularly in the Senate, lends much credence to my fear of the possibility that a postwar economic assistance program for Indochina could run into a similar fate.

Therefore, I am introducing this bill in an attempt to insure maximum cooperation and support for whatever assistance program is planned and developed for postwar Indochina.

To achieve this end, I firmly believe that Congress should not only serve as a financial institution that merely says "Yes," or "No," or "Maybe," to the President's requests. I am convinced that in this most important undertaking, Congress should also have a say as to the design, construction, and implementation of the total project.

The proposed Advisory Commission can serve to bring this desirable result into fruition. Besides having eight Senators and eight Members of the House of Representatives serving on it, the Commission is charged with "soliciting the views of the Members of Congress, who control the pursestrings, on economic and humanitarian assistance."

Besides having members from the legislative and executive branches serving on it, the Commission will have prominent individuals from the public sector who can be instrumental in several respects.

They can help assess the available manpower, technical know-how, and experience that could contribute toward the success of any reconstruction effort.

They can also help to compute the benefits to be derived as compared to estimated costs involved.

They can, most importantly, help to establish an order of priorities by formulating broad and comprehensive recommendations as to the extent and kind of assistance that the United States should provide for the reconstruction and redevelopment of the wartorn countries of Southeast Asia.

Mr. President, no time should be lost in developing policies for Indochina that the majority of Americans can support. Consequently, we need a formal body to which suggestions and ideas can be presented, discussed, and developed.

No section of our country has a monopoly on or mandate for good workable programs for Indochina. Neither the executive, legislative, or public segment of the United States can alone represent America.

Our country needs something like the Advisory Commission I am proposing to meet this need. It is not too soon. Indeed, it is getting late for us to develop a broadly based policy on reconstruction and redevelopment of Indochina.

More than 100 years ago, President Abraham Lincoln gave our Nation counsel that is as appropriate now as it was then:

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.

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

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

S. 1079

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

STATEMENT OF FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) the signing of the formal agreement ending open hostilities in Indochina is a welcome development that can lead to a generation of peace and cooperation in wartorn Southeast Asia;

(2) the movement from wartime bitterness to peacetime cooperation is one of the most significant and encouraging developments since the end of the Korean war;

(3) the peace agreement is a major achievement and symbol of the new United States policy for Asia and the Pacific; and

(4) the continuation and development of close friendship and cooperation between the United States and the countries of Indochina will make a vital contribution to the prospects for peace, prosperity, and security not only in Southeast Asia, but in the entire Asian-Pacific region.

(b) It is, therefore, the purpose of this Act to establish a temporary advisory commission to make a study with respect to future United States assistance for Southeast Asia.

ESTABLISHMENT OF THE COMMISSION; COMPOSITION

SEC. 2. (a) There is established a temporary commission to be known as the Advisory Commission on the Reconstruction and Redevelopment of Southeast Asia (hereafter referred to as the "Commission"). The Commission shall be composed of the following 32 members:

(1) the Secretary of State;

(2) the Secretary of Agriculture;

(3) the Secretary of Commerce;

(4) the Administrator of the Agency for International Development;

(5) the President of the Export-Import Bank;

(6) the President of the Overseas Private Investment Corporation;

(7) Eight Senators, appointed by the President of the Senate, no more than 4 from one party;

(8) Eight Members of the House of Representatives, appointed by the Speaker of the House, no more than 4 from one party; and

(9) Ten outstanding United States citizens, who shall be appointed by the President by and with the advice and consent of the Senate, one of whom shall be designated chairman.

(b) Members of the Commission appointed under subsection (a)(7)(9) of this section shall be appointed as soon as practicable after the date of enactment of this Act. The Commission shall meet promptly thereafter.

(c) A majority of the members of the Commission shall contribute a quorum, but a lesser number may conduct hearings and deliberations.

(d) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(e) Members of the Commission who are not regular, full-time employees of the United States shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the President, but not exceeding $150 a day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses including per diem in lieu of subsistence.

FUNCTIONS OF THE COMMISSION

SEC. 3. (a) The Commission is authorized to—

(1) formulate broad and comprehensive recommendations as to the extent and kind of assistance program that the United States should provide for the reconstruction and redevelopment of the war torn countries of Southeast Asia;

(2) receive the views of the American people and try to forge them into realistic and practical recommendations;

(3) solicit the views of the members of Congress;

(4) assess the availability of manpower and technical know-how needed to fulfill such an undertaking;

(5) promulgate guidelines for computing cost-benefit ratios for reconstruction and redevelopment projects, inasmuch as our country has been experiencing substantial budgetary deficits and our domestic financial needs are increasing at a rapid and growing rate;

(6) establish the priorities of reconstruction and redevelopment assistance to be furnished by the United States for Southeast Asia; and

(7) determine whether aid should be channeled through multinational organizations or given on a bilateral basis, or both.

(b) The Commission shall submit a preliminary report to the President and Congress not later than 4 months after the date it first meets. The Commission shall submit a final report to the President and Congress, including such recommendations as it considers appropriate, not later than 6 months after submission of its final report.

ADMINISTRATIVE PROVISIONS

SEC. 4. (a) In carrying out its functions under this Act, the Commission is authorized to hold such hearings, sit and act at such times and places, and take such testimony with respect to its functions under this Act.

(b) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its functions under this Act. Upon request of the Chairman of the Commission, any such department or agency shall furnish such information to the Commission.

(c) The Agency for International Development shall provide to the Commission, on a reimbursable basis, such personnel and administrative support services and supplies as the Commission may request.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. BAYH:

S. 1080. A bill to provide for the establishment of a Foreign Service grievance procedure. Referred to the Committee on Foreign Relations.

THE FOREIGN SERVICE GRIEVANCE BILL

Mr. BAYH. Mr. President, during the 92d Congress, a considerable amount of congressional attention was devoted to the creation of an independent and impartial grievance system for all employees of the Foreign Service. Following hearings on a grievance bill which I had introduced in June 1971, Senator Cooper and I, together with our staffs and all interested parties spent months drafting a compromise bill designed to reflect the legitimate concerns of all interested parties. The result—S. 3722—passed the Senate twice. I believe it represented a workable and effective compromise; certainly it was the product of repeated efforts to resolve differences between the employees and the Departments involved.

As you know, during the entire debate over this proposal, the Department's consistent position was one of delay; delay until the Department could propose a final procedure; delay until an exclusive employee representative was elected; and delay until in-house negotiations were complete. As a result, hearings were held in the House, but a bill was not reported out of committee.

Now that a new Congress has begun, the question again arises of the prospects of the Foreign Service Grievance bill. It has been my position that S. 3722 merely established general principles of due process, leaving the step by step detail of any procedure to be worked out in "in-house negotiations." The general bill should be passed as a framework for negotiations. Passage of such a bill would alleviate the widespread mistrust which exists between employees and management. However, by the time the 93d Congress began, a schedule for the long-heralded negotiations had been established. Therefore, I have been content to wait and see whether employee-management negotiations could indeed produce an equitable procedure acceptable to all parties.

It is now my understanding that negotiations so far have not produced any substantial agreement, even on basic principles, between the employee representative and the Department. Indeed, I am told that the Department refuses to discuss at all the possibility of any embodying legislation setting forth the principles of a grievance procedure. The refusal to even discuss legislation directly contradicts a statement which Mr. Macomber, Deputy Under Secretary for Management, offered last year during testimony before the House Foreign Affairs Committee when he said:

Mr. Chairman, as you and the other members of this subcommittee know, from the time of the introduction into the Congress of the first of the various bills which would prescribe in detail grievance procedures for the Foreign Service, the position of the Department of State and of the executive branch as a whole was that (taking a leaf from the private sector) a definitive grievance procedure could most appropriately be developed through the employee-management relations system; that it should be bargained out there rather than be unilaterally imposed by legislation; that once such a system had been bargained out, however, the Department would be prepared to support legislation in the form of an amendment to the Foreign Service Act incorporating the *general principles* of that grievance procedure. We stated this in the comments of the executive branch on S. 2023 to the Senate Committee on Foreign Relations in September of 1971, and I reiterated this position in my testimony to that committee in October 1971. As recently as February 15, 1972, Secretary Rogers urged the Foreign Relations Committee not to proceed with legislation at that time, while restating his personal support for later legislation incorporating the basic principles of the bargained-out definitive procedures as an amendment to the Foreign Service Act.

It became increasingly clear, however, that certain members of Congress were anxious to enact legislation before the employee-management relations system could produce a definitive grievance procedure. It also became clear that, as Under Secretary for Political Affairs U. Alexis Johnson reported to the Secretary, a broad consensus existed within the Foreign Service itself favoring the adoption of grievance legislation at this time. Ambassador Johnson indicated that he personally also believed "that such legislation properly drafted is desirable."

As a result, in April of this year Secretary Rogers wrote the chairman of both the Foreign Relations Committee and the Foreign Affairs Committee stating that we had "now concluded that legislation setting forth general principles for a grievance procedure . . . would be desirable at this time." What in effect he was saying was that while the Department initially preferred legislation incorporating general principles after the bargaining process was completed, we would now support general legislation before that process—as long as it was limited to general principles and still allowed the parties to work out a mutually acceptable detailed system.

As a result of the Department's apparent retrenched position, today I am reintroducing the so-called Bayh-Cooper bill to make it clear that an alternative to stalemated negotiations exists.

The general objective of the bill is to eliminate unnecessary rigidities in previous legislative proposals so as to allow the Secretary and the grievance board sufficient flexibility to meet changing needs in the Foreign Service. The Secretary is given substantial authority to author and revise the implementing regulations; the Board has authority to structure each hearing to meet the particular situation.

The rest of the bill is largely a compilation of basic rights of due process such as:

First. The right to a hearing;

Second. The right to representation at all stages of the proceedings;

Third. The right of access to documents relevant to a grievant's case;

Fourth. The right to call witnesses from the Department and to cross-examine those provided by the other side;

Fifth. The right of access to a transcript of the hearing;

Sixth. The right of freedom from interference or coercion while presenting a grievance ;and

Seventh. The right to a reasonable expectation that after a fair hearing of the findings of the Board will be carried out, and that if any due process rights are violated, the Board will have the power to enforce disciplinary action.

The employees can ask for no less; any grievance procedure worthy of the respect of the potential grievants and the public must be based on such rights. Again, I emphasize that this legislation merely provides the framework of a procedure. The language needed to secure the rights may be detailed, but the real details of the process are left up to the Department and the employees.

Mr. President, I sincerely hope that the present negotiations do lead to some basic agreement between the Department and the exclusive employee representative. However, if they do not, I intend to ask for prompt Senate consideration of the grievance bill. I would also expect prompt consideration by the House. Last year Mr. HAYS, chairman of the Subcommittee on State Department Organization and Foreign Operations, assured me that if his subcommittee did not take action on the grievance bill during the 92d Congress, he would make that bill the pending order of business before his subcommittee during the 93d Congress and that new hearings would not be required.

State Department employees have waited too long already for adequate protections of their rights of due process. It is time to establish an explicit grievance mechanism worthy of the confidence of the employees of the Foreign Service; hopefully a unified Foreign Service can then redistrict its attention to nationally important questions of foreign policy. 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. 1080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title VI of the Foreign Service Act of 1946 is amended by adding at the end thereof the following new part:

"PART J—FOREIGN SERVICE GRIEVANCES

"STATEMENT OF PURPOSE

"SEC. 691. It is the purpose of this part to provide officers and employees of the Service and their survivors, a grievance procedure to insure the fullest measure of due process, and to provide for the just consideration and resolution of grievances of such officers, employees, and survivors.

"REGULATIONS OF THE SECRETARY

"SEC. 692. The Secretary shall, consistent with the purposes stated in section 691 of this Act, implement this part by promulgating regulations, and revising those regulations when necessary, to provide for the consideration and resolution of grievances by a board. No such regulation promulgated by the Secretary shall in any manner alter or amend the provisions for due process established by this section for grievants. The regulations shall include, but not be limited to, the following:

"(1) Informal procedures for the resolution of grievances in accordance with the purposes of this part shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not resolved under such procedures within sixty days, a grievant shall be entitled to file a grievance with the board for its consideration and resolution. For the purposes of the regulations—

"(A) 'grievant' shall mean any officer or employee of the Service, or any such officer or employee separated from the Service, who is a citizen of the United States, or in the

case of the death of the officer or employee, a surviving spouse or dependent family member of the officer or employee; and

"(B) 'grievance' shall mean a complaint against any claim of injustice or unfair treatment of such officer or employee arising from his employment or career status, or from any actions, documents, or records, which could result in career impairment or damage, monetary loss to the officer or employee, or deprivation of basic due process, and shall include, but not be limited to, actions in the nature of reprisals and discrimination, acts related to promotion or selection out, the contents of any efficiency report, related records, or security records, and actions in the nature of adverse personnel actions, including separation for cause, denial of a salary increase within a class, written reprimand placed in a personnel file, or denial of allowances.

"(2)(A) The board considering and resolving grievances shall be composed of independent, distinguished citizens of the United States well known for their integrity, who are not officers or employees of the Department, the Service, the Agency for International Development, or the United States Information Agency. The board shall consist of a panel of three members, one of whom shall be appointed by the Secretary, one of whom shall be appointed by the organization accorded recognition as the exclusive representative of the officers and employees of the Service, and one who shall be appointed by the other two members from a roster of twelve independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service. If members of the board (including members of additional panels, if any) find that additional panels of three members are necessary to consider and resolve expeditiously grievances filed with the board, the board shall determine the number of such additional panels necessary, and appointments to each such panel shall be made in the same manner as the original panel. Members shall (i) serve for two-year terms, and (ii) receive compensation, for each day they are performing their duties as members of the board (including traveltime), at the daily rate paid an individual at GS–18 of the General Schedule under section 5332 of title 5, United States Code. Whenever there are two or more panels, grievances shall be referred to the panels on a rotating basis. Except in the case of duties, powers, and responsibilities under this paragraph (2), each panel is authorized to exercise all duties, powers, and responsibilities of the board. The members of the board shall elect, by a majority of those members present and voting, a chairman from among the members for a term of two years.

"(B) In accordance with this part, the board may adopt regulations governing the organization of the board and such regulations as may be necessary to govern its proceedings. The board may obtain such facilities and supplies through the general administrative services of the Department, and appoint and fix the compensation of such officers and employees as the board considers necessary to carry out its functions. The officers and employees so appointed shall be responsible solely to the board. All expenses of the board shall be paid out of funds appropriated to the Department for obligation and expenditure by the board. The records of the board shall be maintained by the board and shall be separate from all other records of the Department.

"(3) A grievance under such regulations is forever barred, and the board shall not consider or resolve the grievance, unless the grievance is filed within a period of eight months after the occurrence or occurrences giving rise to the grievance, except that if the grievance arose prior to the date the regulations are first promulgated or placed into effect, the grievance shall be so barred, and not so considered and resolved, unless it is filed within a period of one year after the date of enactment of this part. There shall be excluded from the computation of any such period any time during which the grievant was unaware of the grounds which are the basis of the grievance and could not have discovered such grounds if he had exercised, as determined by the board, reasonable diligence.

"(4) The board shall conduct a hearing in any case filed with it. A hearing shall be open unless the board for good cause determines otherwise. The grievant and, as the grievant may determine, his representative or representatives are entitled to be present at the hearing. Testimony at a hearing shall be given by oath or affirmation, which any board member shall have authority to administer (and this paragraph so authorizes). Each party (A) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition, and (B) shall be entitled to serve interrogatories upon another party and have such interrogatories answered by the other party unless the board finds such interrogatory irrelevant or immaterial. Upon request of the board or grievant, the Department shall promptly make available at the hearing or by deposition any witness under the control, supervision, or responsibility of the Department, except that if the board determines that the presence of such witness at the hearing would be of material importance, then the witness shall be made available at the hearing. If the witness is not made available in person or by deposition within a reasonable time as determined by the board, the facts at issue shall be construed in favor of the grievant. Depositions of witnesses (which are hereby authorized, and may be taken before any official of the United States authorized to administer an oath or affirmation, or, in the case of witnesses overseas, by deposition on notice before an American consular officer) and hearings shall be be recorded and transcribed verbatim.

"(5) Any grievant filing a grievance, and any witness or other person involved in a proceeding before the board, shall be free from any restraint, interference, coercion, discrimination, or reprisal. The grievant has the right to a representative of his own choosing at every stage of the proceedings. The grievant and his representatives who are under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to prepare, to be present, and to present the grievance of such grievant. Any witness under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to appear and testify at any such proceeding.

"(6) In considering the validity of a grievance, the board shall have access to any document or information considered by the board to be relevant, including, but not limited to, the personnel and, under appropriate security measures, security records of such officer or employee, and of any rating or reviewing officer (if the subject matter of the grievance relates to that rating or reviewing officer). Any such document or information requested shall be provided promptly by the Department. A rating officer or reviewing officer shall be informed by the board if any report for which he is responsible is being examined.

"(7) The Department shall promptly furnish the grievant any such document or information (other than any security record or the personnel or security records of any other officer or employee of the Government) which the grievant requests to substantiate his grievance and which the board determines is relevant and material to the proceeding.

"(8) The Department shall expedite any security clearance whenever necessary to insure a fair and prompt investigation and hearing.

"(9) The board may consider any relevant evidence or information coming to its attention and which shall be made a part of the record of the proceeding.

"(10) If the board determines that (A) the Department is considering any action (including, but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board, and (B) the action should be suspended, the Department shall suspend such action until the board has ruled upon such grievance.

"(11) Upon completion of the proceedings, if the board resolves that the grievance is meritorious—

"(A) and determines that relief should be provided that does not directly relate to the promotion, assignment, or selection out of such officer or employee, it shall direct the Secretary to grant such relief as the board deems proper under the circumstances, and the resolution and relief granted by the board shall be final and binding upon all parties; or

"(B) and determines that relief should be granted that directly relates to any such promotion, assignment, or selection out, it shall certify such resolution to the Secretary, together with such recomendations for relief as it deems appropriate and the entire record of the board's proceedings, including the transcript of the hearing, if any. The board's recommendations are final and binding on all parties, except that the Secretary may reject any such recommendation only if he determines that the foreign policy or security of the United States will be adversely affected. Any such determination shall be fully documented with the reasons therefor and shall be signed personally by the Secretary, with a copy thereof furnished the grievant. After completing his review of the resolution, recommendation, and record of proceedings of the board, the Secretary shall return the entire record of the case to the board for its retention. No officer or employee of the Department participating in a proceeding on behalf of the Department shall, in any manner, prepare, assist in preparing, advise, inform, or otherwise participate in, any review or determination of the Secretary with respect to that proceeding.

"(12) The Board shall have authority to insure that no copy of the Secretary's determination to reject a board's recommendation, no notation of the failure of the board to find for the grievant, and no notation that a proceeding is pending or has been held, shall be entered in the personnel records of such officer or employee to whom the grievance relates or anywhere else in the records of the Department, other than in the records of the board.

"(13) A grievant whose grievance is found not to be meritorious by the board may obtain reconsideration by the board only upon presenting newly discovered relevant evidence not previously considered by the board and then only upon approval of the board.

"(14) The board shall promptly notify the Secretary, with recommendations for appropriate disciplinary action, of any contravention by any person of any of the rights, remedies, or procedures contained in this part or in regulations promulgated under this part.

"RELATIONSHIP TO OTHER REMEDIES

"SEC. 693. If a grievant files a grievance under this part, and if, prior to filing such grievance, he has not formally requested that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part, then such matter or matters may only be considered and resolved, and relief provided, under this part. A grievant may not file a grievance under this part if he has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part.

"JUDICIAL REVIEW

"SEC. 694. Notwithstanding any other provision of law, regulations promulgated by the Secretary under section 692 of this Act, revisions of such regulations, and actions of the Secretary or the board pursuant to such section, may be judicially reviewed in accordance with the provisions of chapter 7 of title 5, United States Code."

(b) The Secretary of State shall promulgate and place into effect the regulations provided by section 692 of the Foreign Service of 1946 (as added by subsection (a) of this section), and establish the board and appoint the member of the board which he is authorized to appoint under, as provided by such section 692, not later than 90 days after the date of enactment of this Act.

By Mr. JACKSON:

S. 1081. A bill to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment. Referred to the Committee on Interior and Insular Affairs.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

Mr. JACKSON. Mr. President, I introduce for appropriate reference the Federal Lands Right-of-Way Act of 1973.

The purpose of this measure is to establish a comprehensive national policy and procedure for the granting of rights-of-way across the Federal lands for those transportation and transmission purposes which meet the requirements of the act.

Mr. President, Federal legislation on right-of-way authority is now needed because the recent decision of the Circuit Court of Appeals for the District of Columbia on the proposed Trans-Alaska oil pipeline has cast a cloud of uncertainty over the Secretary of the Interior's legal authority to grant rights-of-way for oil and gas pipelines, water lines, electrical transmission lines, communication facilities, roads, and other necessary transportation facilities across public and Federal lands.

The full reach and effect of the court's decision on the case of the Wilderness Society et al. against Secretary Morton is not entirely known. It is clear, however, that many of the existing Federal rights-of-way statutes which have specific width limitations are no longer adequate. Rights-of-way granted in the past for many different purposes may now, in whole or in part, be illegal in view of the court's decision. In addition, the court's ruling means that with respect to proposals for large oil and gas pipelines, electrical transmission lines, and other facilities the Secretary does not now have the legal authority to issue rights-of-way of sufficient width to allow needed new transmission and transportation facilities be developed.

The bill I propose today is patterned in a number of important respects after the provision of title IV of the administration's proposed National Resource Lands Management Act. The bill does, however, incorporate major changes from the approach proposed by the Department of the Interior. These changes involve specific provisions on: First, land use planning; second, multiple use of common transportation corridors; third, the relationship of right-of-way legislation to the National Environmental Policy Act; fourth, the role of common carrier pipelines; fifth, environmental requirements; sixth, the liability of holders of rights-of-way across Federal lands; and seventh, various other matters.

Mr. President, there are a number of other bills and amendments pending which deal with some aspect of the Federal Government's authority to issue rights-of-way across Federal lands. Most of these measures were introduced in response to the legal uncertainties created by the court of appeals decision in the Trans-Alaska Pipeline case. Some of these proposals are very specific and relate directly to the Secretary of Interior's authority to grant a right-of-way permit to authorize construction of this pipeline. It is my view that a broader approach is needed because the problems caused by the court's decision affect much more than rights-of-way for oil pipelines in Alaska. They involve every State in which rights-of-way for many different purposes cross Federal lands.

Even though the issues presented by the court's decision go far beyond the Trans-Alaska Pipeline proposal it is evident that much of the debate on this legislation will be carried on in the context of the proposed Alaska pipeline. Because of this, some discussion of the history of this proposed facility is in order.

The critical issues of Federal law involve the Secretary of the Interior's authority to grant a right-of-way broad enough for the proper construction and operation of a modern, 48-inch pipeline, and the proposed permit's compliance with the National Environmental Policy Act of 1969—NEPA. Plaintiffs in the court case contended that the Mineral Leasing Act of 1920 forbids a right-of-way extending more than 25 feet on either side of the pipeline, and that this limit applies as well to any special land use permit that may be granted in connection with pipeline construction or operation. They also contended that NEPA requires the Interior Department to give more thorough consideration than it yet has to an alternative route through Canada before granting a permit for the trans-Alaska route. There were other legal issues but they are basically subsidiary to these two.

These issues were first tried in Federal district court before Judge Hart, who last August 15 dismissed all the complaints. On February 9, 1973, however, the U.S. Court of Appeals for the District of Columbia Circuit unanimously determined that the Interior Secretary lacked the authority to grant a right-of-way, whatever it was called, that exceeded the limits set out in the Mineral Leasing Act. The court, in a divided opinion, also declined to rule on the NEPA challenge on several grounds—that the permit's illegality under the Mineral Leasing Act made the NEPA issues moot; that even if Congress were to remove the right-of-way limitation, circumstances relevant to the NEPA issues might change in the meantime; and finally, that the record from district court was inadequate to support any finding on the appeal.

Congress can lift some but not all of the barriers to production and transportation of North Slope oil. I regret that the circuit court did not come to grips with the challenge to the pipeline under NEPA. The courts must still determine the scope of the act and the factual question as to whether the administration did give proper consideration to the relevant alternatives. These kinds of issues are ones into which Congress should not interpose its judgment into the judicial process except for the most compelling reasons. I would not, however, categorically rule out congressional intervention, should the litigation go on and on without resolution, but the case for such action is not yet clear.

The Mineral Leasing Act issue regarding the right-of-way is straightforward and urgent. No large modern oil or gas pipeline can be built or operated anywhere in the country without using more than 25 feet on at least one side. Moreover, the court's ruling casts a legal cloud over the continued operation of countless other pipelines throughout the country. The court's reasoning in the Alyeska case may be extended to other rights-of-way—electrical transmission lines, irrigation canals, and the like—raising obstacles to construction of new facilities and casting doubt on the legality of existing facilities.

Skelly Wright, in his circuit court opinion, placed this issue squarely before the Congress. He said—

> At the heart of (the) discussion is a very simple point, Congress, by enacting Section 28, allowed pipeline companies to use a certain amount of land to construct their pipelines. These companies have now come into court, accompanied by the executive agency, authorized to administer the statute, and have said, "This is not enough land; give us more." We have no more power to grant their request, of course, than we have the power to increase congressional appropriations to needy recipients. Article 4, § 3, Cl. 2 of the Constitution provides that "The Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory and other Property belonging to the United States." The power over the public land thus entrusted to Congress is without limitations. "And it is not for the courts to say how that trust shall be administered. *That is for Congress to determine.*"

Mr. President, I ask unanimous consent that a summary of the bill and the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I would also like to announce that a hearing has been scheduled on March 9, 1973, before the Senate Committee on Interior and Insular Affairs to receive testimony on this bill and other pending legislative measures to clarify and authorize the granting of rights-of-way, easements, leases, and permits across federally owned lands. The hearing will be held in room 3110 of the Dirksen Senate Office Building and will begin at 10 a.m. Witnesses to be heard at that time will be representatives of the Department of the Interior and any other witnesses who request an opportunity to present testimony.

Exhibit 1

SUMMARY OF THE FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

1. Establish a comprehensive and unitary Federal policy and procedure for the granting of rights-of-way across the Federal lands.

2. Does not permit the granting of rights-of-way across lands in (a) the National Park System, (b) the Wildlife Refuge System, (c) the Outer Continental Shelf, (d) the Wilderness Preservation System, or (e) Indian trust or restricted lands.

3. Specifies the purposes for which rights-of-way may be granted. These include oil and gas pipelines and associated facilities; other pipelines; canals, ditches, tunnels, and systems for water transport; transportation systems for moving solid materials; electrical transmission lines and systems; transmission systems for communication (telephone, telegraph, radio, television, etc.,); roads, trails, highways, railroads, and other forms of transportation; and other legitimate transmission or transportation systems which are in the public interest.

4. Requires that insofar as possible rights-of-way across Federal lands be confined to common corridors designed for multiple use purposes. Also, the Secretary of the Interior is directed to initiate a land use planning process for the identification and designation of a National System of transportation and utility corridors across the Federal lands.

5. Authorizes and directs the Secretary to issue regulations designed to set forth specific requirements to protect air and water quality; to prevent and control damage to the environment and to fish and wildlife resources; to prevent any damage to private and public property; and to protect public health and safety.

6. Requires the applicant for a right-of-way across Federal lands to pay the United States the fair market value of the right-of-way.

7. Establishes that the holder of a right-of-way is liable to the United States and to third parties for any damage or injuries caused in connection with any activities conducted on the right-of-way.

8. Requires the holder of a right-of-way to furnish a bond or other security necessary to insure that all of the requirements of the Act are fulfilled.

9. Requires that before a right-of-way may issue the applicant must demonstrate financial and technical capability to complete the project in accord with the requirements of the Act.

10. Sets forth specific terms and conditions relating to protecting the environment, Federal property, and the public interest.

11. Requires that right-of-way contain terms and conditions to protect the interest of individuals living in the right-of-way areas who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. This provision has particular reference and importance for Alaska Native people.

12. Provides for the termination, abandonment, or suspension of rights-of-way.

13. Provides for the grant of rights-of-way to Federal agencies.

14. Provides for treatment of rights-of-way in the event the Federal lands involved are ever conveyed out of Federal ownership.

15. Confirms the authority under which previous rights-of-way have been granted and authorizes their conversion to rights-of-way authorized under this Act.

16. Specifically provides that nothing in this Act shall be construed to amend, repeal, modify or change any provision or requirement of the National Environmental Policy Act of 1969.

S. 1081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Lands Right-of-Way Act of 1973".

DEFINITIONS

SEC. 2. As used in this Act—

(a) "Right-of-way" means an easement, lease, permit, or license to occupy, use or traverse Federal lands.

(b) "Federal lands" means all lands owned by the United States except (1) lands in the National Park System, (2) lands in the National Wildlife Refuge System, (3) lands on the Outer Continental Shelf, (4) lands in the National Wilderness Preservation System, and (5) lands held by the United States in trust for any Indian or Indian tribe, and lands held or owned by any Indian or Indian tribe under a limitation or restriction on alienation requiring the consent of the United States.

(c) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving a right-of-way under this Act.

AUTHORIZATION TO GRANT RIGHTS-OF-WAY ON FEDERAL LANDS

SEC. 3. (a) The Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the Federal lands for—

(1) Pipelines and other systems for the transportation of oil or natural gas and storage and terminal facilities in connection therewith. Such rights-of-way shall extend to—

(A) the lands occupied by the pipeline and its appurtenances, including but not limited to the line of pipe, valves, pump stations, supporting structures (including berms), monitoring devices, surge and storage tanks, and terminals;

(B) the lands occupied by facilities necessary for the operation or maintenance of the pipelines and their appurtenances; and

(C) such adjacent lands as are necessary to protect the environment and to provide for access, operation, maintenance or public safety.

(2) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(3) Pipelines and other systems for the transportation or distribution of liquids and gases, other than oil, water and natural gas, and for storage and terminal facilities in connection therewith;

(4) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(5) Systems for generation, manufacture, transmission and distribution of electric power and energy, except insofar as the Federal Power Commission has jurisdiction under the Act of June 10, 1920, as amended (16 U.S.C. 796, 797);

(6) Systems for transmission or reception of radio, television, telegraph, and other electronic signals, and other means of communication;

(7) Roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

(8) Such other necessary transportation or other systems which are in the public interest and which require rights-of-way over, upon, or through the Federal lands.

(b) Where the surface of the Federal lands is administered by another Federal agency, the consent of the head of that agency shall first be obtained.

(c)(1) Pipelines and other systems authorized under Subsection (a)(1) of this section shall be constructed, operated and maintained as common carriers, and the owners or operators thereof shall accept, convey, transport, or purchase, without discrimination, oil or natural gas produced from Federal lands and other lands in the vicinity of the pipeline in such proportionate amounts as the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine to be reasonable; however, the common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rate and charges for the sale of natural gas to consumers within the State or municipality.

(2) The Secretary, prior to granting, issuing, or renewing a right-of-way under this Act for a pipeline or terminal shall require the applicant to file a stipulation that the pipeline or terminal will be operated as a common carrier as required by subsection (c)(1) of this Act, and setting out the terms and conditions under which the owners or operators will accept, convey, transport or purchase oil or natural gas, including but not limited to: (A) conditions for, and agreements among owners or operators regarding, the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughout capacity in response to actual or anticipated increases in demand; (B) conditions for adding or abandoning intake or offtake points of facilities; (C) systems and principles of accounting and tariff-setting; and (D) minimum shipment tenders. The stipulations and conditions included in the statement required by this subsection shall become part of the right-of-way permit, and shall be amended by the Secretary only after a full hearing with due notice thereof to the interested parties and a proper finding of facts.

(d) Nothing in this Act shall be deemed to limit in any way the authority of the Secretary to make grants, issue leases, licenses or permits, or enter into contracts under other provisions of law, for purposes ancillary or complementary to the construction, operation, maintenance or termination of any facility authorized under this Act.

RIGHT-OF-WAY CORRIDORS

SEC. 4. In order to minimize adverse environmental impacts and to prevent the unnecessary proliferation of separate rights-of-way across Federal lands, the Secretary shall, whenever practical and consistent with national and State land use policies, environmental quality, safety, and good engineering practice, grant non-exclusive and multiple use rights-of-way, and shall, where appropriate, require applicants for rights-of-way under this title to utilize rights-of-way in common.

The Secretary shall issue regulations including but not limited to: (1) standards for requiring and granting non-exclusive and multiple-use rights-of-way; and (2) identification and designation of a national system

of transportation and utility corridors across Federal lands, to which all rights-of-way granted under this Act shall, to the extent practical, be confined.

GENERAL PROVISIONS

SEC. 5. (a) The Secretary shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way granted, issued or renewed pursuant to this Act shall extend to the ground occupied by the facilities which the Secretary determines to constitute the project or portions of the project for which the right-of-way is given. The Secretary by lease, license, or permit may authorize the use of such additional lands as he determines to be necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) The Secretary shall determine the duration of each right-of-way or other authorization to be granted, issued, or renewed pursuant to this Act, and shall also determine whether the right-of-way shall confer exclusive or non-exclusive use.

(c) Rights-of-way granted, issued, or renewed pursuant to this Act shall be given under such regulations and subject to such terms and conditions as the Secretary may prescribe regarding extent, duration, application, charge, survey, location, construction, operation, maintenance and termination.

(d) The Secretary, prior to granting a right-of-way pursuant to this Act for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation and rehabilitation which shall comply with regulations issued by the Secretary. The Secretary shall issue regulations which shall include, but shall not be limited to: (1) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards; and (2) requirements to control, prevent, and restore (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety. Such regulations shall be regularly revised. The issuance or revision of such regulations shall be applicable to every right-of-way granted, issued or renewed pursuant to this Act, irrespective of whether that right-of-way was granted, issued or renewed prior to the issuance or revision of such regulations.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(f) No right-of-way shall be issued for less than the fair market value thereof, except that rights-of-way may be granted, issued or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profit making corporations or business enterprises, for such lesser charge as the Secretary finds equitable and in the public interest.

(g) The holder of a right-of-way under this Act: shall (1) be liable to the United States for damage or injury incurred by the United States in connection with activities conducted on the right-of-way; (2) be liable to third parties in connection with activities conducted on the right-of-way; and (3) shall indemnify or hold harmless the United States for liabilities, damages or claims arising in connection with the right-of-way.

(h) Where he deems it appropriate, the Secretary may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to the Secretary, to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary.

(i) The Secretary shall grant, issue, or renew a right-of-way under this Act only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this Act.

TERMS AND CONDITIONS

SEC. 6. Each right-of-way shall contain such terms and conditions as the Secretary deems necessary to: (a) carry out the purposes of this Act and rules and regulations hereunder; (b) implement other Federal statutes and regulations, particularly any which in any way affect the right-of-way itself or the project for which the right-of-way is required; (c) protect the environment; (d) protect Federal property and monetary interests; (e) manage efficiently Federal lands which are subject to the right-of-way or adjacent thereto; (f) protect lives and property; (g) implement Federal programs and policies; (h) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife and biotic resources of the area for subsistence purposes; and (i) protect the public interest.

SUSPENSION OR TERMINATION OF RIGHT-OF-WAY

SEC. 7(a) The Secretary may suspend or terminate any right-of-way granted, issued or renewed pursuant to this Act if, after due notice to the holder of the right-of-way and an appropriate administrative proceeding, he determines that such action is appropriate; however, no administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time.

(b) Abandonment of the right-of-way or noncompliance with any provision of this Act, condition of the right-of-way, or applicable rule or regulation of the Secretary, may be grounds for termination of the right-of-way. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any two-year period, shall be presumed to constitute abandonment of the right-of-way.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

SEC. 8. (a) The Secretary may set aside for the use of any department or agency of the United States a right-of-way over, upon or through Federal lands, subject to such terms and conditions as he may impose. The provisions of this Act shall be applicable to such rights-of-way to the extent the Secretary deems necessary.

(b) Where a right-of-way has been set aside for the use of any department or agency of the United States, other than the Department of the Interior, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of that other department or agency.

CONVEYANCE OF LANDS

SEC. 9. (a) If the Secretary decides to transfer out of Federal ownership by patent, deed, or otherwise, any Federal lands covered in whole or in part by a right-of-way, the lands may be conveyed subject to the right-of-way; however, if the Secretary determines that the right-of-way is of such a nature that continued Federal control is necessary in the public interest, he may (1) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

(b) Where the Secretary determines to transfer out of Federal ownership any Federal lands covered in whole or in part by a right-of-way, he may offer the holder of the right-of-way a preference right to purchase that portion of the lands which are within the boundaries of the right-of-way, if in the judgment of the Secretary such action is (1) necessary to protect the holder's rights in the right-of-way and (2) not contrary to the public interest.

EXISTING RIGHTS-OF-WAY

SEC. 10. Nothing in this Act shall have the effect of terminating any existing right-of-way authorized pursuant to any other Federal statute. However, with the consent of the holder thereof, the Secretary may cancel such a right-of-way and in its stead issue a right-of-way pursuant to the provisions of this Act.

RULES AND REGULATIONS

SEC. 11. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act.

EFFECT ON OTHER LAWS

SEC. 12. Nothing in this Act shall be construed to amend, repeal, modify or change in any way the requirements of Section 102(2)(C) or any other provision of the National Environmental Policy Act of 1969 (P.L. 91-190, 83 Stat. 852).

By Mr. BAYH (for himself, Mr. WEICKER, Mr. GURNEY, Mr. BEALL, Mr. ROBERT C. BYRD, Mr. JAVITS, Mr. STAFFORD, and Mr. STEVENSON):

S. 1082. A bill to repeal the bread tax, and for other purposes. Referred to the Committee on Agriculture and Forestry.

THE BREAD TAX REPEAL ACT

Mr. BAYH. Mr. President, I send to the desk for appropriate reference, on behalf of the distinguished Senator from Connecticut (Mr. WEICKER) and myself, the Bread Tax Repeal Act. We are pleased that the distinguished Senator from Florida (Mr. GURNEY), the distinguished Senator from Maryland (Mr. BEALL), the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Vermont (Mr. STAFFORD), and the distinguished Senator from Illinois (Mr. STEVENSON) have joined us as cosponsors of this bill.

The Bread Tax Repeal Act will repeal the existing 75 cents per bushel tax imposed on wheat which is made into bread and other baked goods. It will prevent an impending and significant increase on the price of bread. It will eliminate what is perhaps the most regressive sort of a tax a nation can levy on its citizens. And yet it will not affect at all the wheat subsidy payments made to farmers across the country, nor the price the farmer receives for his wheat.

The 75 cents per bushel charge which this bill repeals—commonly known as the bread tax—is imposed under the Agriculture Adjustment Act. The tax is collected from millers, those who turn wheat into flour. The revenues collected from the millers are used to pay a portion of the cost of farm subsidy payments.

The very existence of this tax plainly tends to exert upward pressure on bread prices, for the cost to the miller is reflected in the price he charges the baker

for flour, and then in the price the baker charges the consumer for bread. One recent estimate is that the bread tax results in an increase of 2 cents in the cost of the average loaf of bread. Today the situation is exacerbated, because flour prices have risen dramatically in the last 8 months, due largely to the Russian wheat deal. As every Member of Congress knows, the baking industry believes that it has been squeezed between increasing flour costs and the controlled price it can charge for bread. Bakers have repeatedly sought an increase in bread prices from the Price Commission.

Our fight against inflation would be undermined if we permit bread prices to rise. But the bakers do have a legitimate problem, and many small and independent bakers may be forced out of business if nothing is done. The proper solution, we believe, is to repeal the bread tax. This would have the immediate effect of reversing the upward pressure on flour prices, and thus on bread prices.

Another good reason to repeal the bread tax is that it is highly regressive—it hits much harder on the poor than it does on the rich. Poor people spend a higher proportion of their income on food products and on bread than do the rich; thus the poor pay a higher percentage of their income for the bread tax than the wealthy. This is just the opposite of the sound public policy reflected in our progressive income tax laws. Under our proposal that portion of the subsidy payment previously financed by the unfair bread tax—about $400 million—would be financed instead by the fairer corporation and personal income tax.

I want to emphasize that the bill we introduce today is structured in a way which leaves wheat subsidy payments to farmers unchanged. In our view the issues related to such payment are not connected to the bread tax, and should be discussed separately. This bill keeps subsidy levels exactly where they are now, but calls for financing the subsidies more fairly.

In detail the legislation we introduce today does the following: First, it repeals the 75-cent-per-bushel tax on wheat now paid by millers, effective July 1, 1973—the 1973 crop of wheat; second, it guarantees that the repeal of the bread tax would have no effect on wheat subsidy payments; and third, it directs the President acting through the Cost of Living Council to report to Congress by September 1974, on how much progress has been made in reducing or stabilizing bread prices under this act.

Other legislation aimed at the same problem has been introduced in the House and in this body, Mr. President, including a bill (S. 717) introduced by the principal cosponsor of this bill, Senator WEICKER. The reason that my friend from Connecticut and I have joined together on the bill I have just sent to the desk is that it makes explicit in statutory language two important points which were not explicit in the other bills. First, the bill we introduce today lays out plainly in the law that wheat subsidies will be maintained at their present levels, notwithstanding repeal of the bread tax. The funds lost by repeal of the bread tax would be made up by funds from the general revenue. Second, the bill we introduce today avoids all possibility that the bread tax could be reinstituted under any other provision of law. The bills previously introduced and this one are identical in intent; our bill simply takes every precaution to assure that its intent is carried out.

Mr. President, we look forward to consideration of this proposal by the Agriculture Committee and by the full Senate. We believe it is in the interest of the consumer, the baker, the farmer, and sound policy to pass this legislation.

I ask unanimous consent that the text of the Bread Tax Repeal Act 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. 1082

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as "The Bread Tax Repeal Act of 1973".

SEC. 2. (a) Section 379e of the Agriculture Adjustment Act of 1938, as amended (7 U.S.C. § 1379e) is amended by inserting "(a)" before the first sentence thereof.

(b) Such section 379e is further amended by striking out in the last sentence thereof the words "1971, 1972, and 1973 crops of wheat" and inserting in lieu thereof "1971 and 1972 crops of wheat".

SEC. 3. (a) Section 379e of the Agriculture Adjustment Act of 1938, as amended, is further amended by adding a new subsection (b), as follows:

"(b) Notwithstanding Section 379b of the Agriculture Adjustment Act of 1938, as amended, or any other provision of law, processors shall not be charged for domestic wheat marketing certificates for the 1973 crop of wheat. Any amount which a producer would have realized under law from the sale of his farm domestic allotment of wheat in the absence of the changes made in this chapter by the Bread Tax Repeal Act of 1973 shall be paid to such producer as if such changes had not been made. The Secretary of Agriculture is authorized to issue such regulations as he determines necessary to carry out this subsection, and he is further authorized to use funds of the Commodity Credit Corporation for this purpose."

SEC. 4. The President, through the Cost of Living Council or such other agency as he may direct, shall report to the Congress by September 1, 1974 on the effect of this Act on reducing or stabilizing the retail price of bread.

SEC. 5. There is authorized to be appropriated out of the sums in the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this Act, including payments to producers necessitated by Section 3.

Mr. WEICKER. Mr. President, I am today introducing, along with the distinguished Senator from Indiana, legislation to abolish the 75-cent-per-bushel certificate tax levied on wheat processors, such as bakeries or flour millers.

I introduced a similar measure, S. 717, on February 1, 1973. The bill we are presenting today is identical to S. 717 with respect to repeal of the 75-cent excise tax. It differs only in that it adds two new provisions. The first provision explicitly states that removal of the authority to charge wheat processors 75 cents for wheat certificates does not mean that these processors could then be charged the full certificate face value, which may be as much as double the 75 cents. A second provision would make explicit that the reduction of 75 cents charged wheat processors shall not be used to reduce, by 75 cents, the value of the certificates to farmers—in other words, the 75 cents will have to be made up from general revenues, and there would be no penalizing of farmers as a result of this bill.

This additional action seemed necessary in light of recent executive branch actions, which have taken advantage of legislative intentions that were not mandatory. The lack of specificity has been used to contradict legislative intent, and we wish to present no such vulnerability here.

Mr. President, the measure we are introducing today would effectively terminate, as of July 1 of this year, the so-called "bread tax," a tax which has increased the cost of bread by almost 2 cents a loaf. Under present law, this excise tax, which last year amounted to over 50 percent of the market value of wheat, would continue until July 1, 1974. Of all Federal excise taxes, I know of none that even approaches 50 percent of the commodity value. Without question, this is one of the most excessive and regressive of all Federal excise taxes; but an even more unfortunate aspect is that it hits hardest at those who have the least ability to bear its burden.

Of foremost concern, is the impact of this tax on the American consumer, already overburdened by food prices. Ironically, the tax applies only on wheat for food uses—like bread and flour—and not on wheat for feed. Pigs and poultry get a better tax break on their food than people.

Although supermarket prices have increased in recent months, the Government's most recent price figures indicate that still higher retail prices can be expected. In January alone, grocery prices rose nationally by 2.3 percent, the largest monthly rise in 21 years.

The wholesale price of wheat, specifically, increased during the past year by 57 percent, to about $2.46 per bushel. The original purpose of this wheat certificate tax was to assure that processors would pay an average of $2 per bushel—or the market price of about $1.25 plus a 75-cent tax. Given the present market price for wheat, it is preposterous to charge an excise tax that must be absorbed by the already overburdened American consumer.

In addition, the bread tax has all the earmarks of an anti-antipoverty program. The effect of this tax is, of course, passed on to the consumer—especially should bakeries be forced out of business by a resulting profit squeeze. Department of Agriculture statistics show clearly that wheat flour consumption goes up sharply as family income goes down, dramatically illustrating the regressive nature of this tax:

Home use of wheat products per person per week

[In pounds]

Annual income per family:	U.S. average
Under $2,000	3.83
$2,000 to $2,999	3.15
$3,000 to $3,999	2.84
$4,000 to $4,999	2.59
$5,000 to $5,999	2.58
$6,000 to $7,999	2.46
$8,000 to $9,999	2.29

Consumer spending for wheat products

Annual income per family:	Percent
Under $2,000	6.6
$2,000 to $2,999	5.9
$3,000 to $3,999	5.8
$4,000 to $4,999	5.3
$5,000 to $5,999	5.1
$6,000 to $7,999	4.8
$8,000 to $9,999	4.6

The time has clearly come for the Congress to take this step to help low-income consumers—a delay will mean a $400 million burden for those least able to pay for their daily bread.

Finally, this unique wheat certificate tax imposes an undue burden upon the independent bakeries struggling to survive under an economic squeeze of rising costs and controlled prices. The extension of this extraordinary tax will mean a loss of hundreds of jobs and threaten the economic viability of small bakers. The Milling & Baking News, on December 5, 1972, published a list of 35 wholesale bakeries that had closed in the past year for economic reasons.

A letter I received recently from Robert L. Schaus, of the Reymond Baking Co. in Waterbury, Conn. illustrates this problem. As Mr. Schaus points out:

> Our bakery has suffered to the extent of an additional $5,000.00 per week for increased flour costs without price relief. While we have the legal right to increase our prices, we cannot do so because of the competition of Tier I (for wage and price control purposes) companies who cannot increase prices because of Tier I limitations under the present Price Commission Guidelines.

I have joined with Senator TALMADGE in a letter to President Nixon requesting a meeting between Dr. John Dunlop, Mr. John Erlichman, Secretary George Schultz, and representatives of the baking industry. Such a meeting is needed to resolve the baking industry's problems stemming from decisions by the Price Commission and the Cost of Living Council.

Nevertheless, we do not ultimately want the Reymond Baking Co., or any other bakery, to raise prices. Rather, we should remove the 75-cent-per-bushel certificate tax on wheat. This would not affect consumers, or for that matter, payments to wheat farmers. Under present law, 90 percent of the funds for farm payments come from general revenue, and 10 percent come from the bread tax.

Enactment of this bill would simply mean that all farm payments would come from general revenues.

Mr. President, I urge the Congress to act quickly on this measure, as a responsible, fair, and necessary step to offset the increased costs of flour caused by recent Russian wheat sales, and to protect our consumers, independent bakeries, and all those who subsist on low incomes.

By Mr. BAYH:

S. 1083. A bill to amend certain provisions of Federal law relating to explosives. Referred to the Committee on the Judiciary.

Mr. BAYH. Mr. President, today I am introducing legislation that would remove some of the existing restrictions on commercially produced black powder used solely for sporting purposes. My bill exempts black powder and certain igniters from the licensing and permit provisions of title XI of the Organized Crime Control Act only when used in the firing of antique weapons. Thousands of law-abiding Americans own muzzle loading rifles which they use in recreational and competitive meets. Because of the present restrictions on black powder, these sporting enthusiasts are severely hampered in the enjoyment of their antique firearms. My bill would allow them to obtain the black powder they need to participate in the antique shooting sports.

My bill does not affect the strict existing criminal penalties for the misuse of explosives, including black powder and igniters. These penalties, adopted by the Congress in 1970, are designed to prevent unlawful damage to property, intimidation, personal injury, and loss of life through the use of explosives. The necessity for severely punishing these horrendous crimes is clear. And it is equally clear that access to black powder must be restricted to those sportsmen who have a legitimate need for this kind of explosive material.

I hope that my colleagues will give favorable consideration to this measure. 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. 1083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 845(a) of title 18 of the United States Code (relating to exemptions from certain provisions of Federal law relating to explosives) is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers intended to be used solely for sporting purposes in antique firearms or devices as defined in Section 921(a) of title 18 of the United States Code; and

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By Mr. BAYH:

S. 1084. A bill to extend benefits under section 8191 of title 5, United States Code, to law enforcement officers and firefighters not employed by the United States who are killed or totally disabled in the line of duty. Referred to the Committee on Post Office and Civil Service.

Mr. BAYH. Mr. President, I reintroduce today for appropriate reference a bill I have introduced in every Congress since 1969. The bill extends Federal employees' compensation benefits to all policemen and firefighters who are killed or disabled in the line of duty. It recognizes the important service that dedicated firefighters and policemen perform for the whole Nation as well as for their own communities.

The reason I favor bringing policemen and firefighters under the provisions of the Federal Employees Compensation Act, Mr. President, is that this act provides benefits which are related to the needs of the public safety officer and his family. For example, under my bill, a widow without children would get 45 percent of what her husband was earning. And she would get it for life or until she remarried. If she has children, she gets 40 percent plus 15 percent for each child until she remarries, or her children reach the age of 18, or 22 if they are students. This widow's and her children's compensation could be as high as 75 percent of the deceased policeman's or firefighter's salary.

If we take that amount on a monthly annuity basis for a mother with young children, and compare it with the $50,000 lump sum settlement which has been suggested as the alternative, we will see that a mother with three small children get significantly more though the yearly impact on the Federal budget is smaller. Invested at 6 percent, $50,000 would yield only $3,000 annually. A widow with three children under my bill would get $7,500 annually on the basis of a salary of $10,000 for her husband. Under my bill an injured or disabled policeman or firefighter could get the full range of FECA benefits—medical care, rehabilitation, and more adequate compensation for loss of his limbs, or his eyesight, or his hearing, or any other disability.

There is another reason to take the approach I suggest today, Mr. President, a reason of equity. Under legislation passed in the 90th Congress, benefits comparable to those provided in the Federal Employees Compensation Act—less the amount received from certain other compensation systems—are paid to State or local law enforcement officers who suffer personal injury or loss of life in the line of duty while enforcing Federal law. However, that law does not apply to death or disability suffered in the course of investigating a non-Federal crime, nor does it apply to other public safety offices like firefighters. My bill would make benefits available to both policemen and firefighters, and would eliminate the requirement that Federal law be involved before benefits are paid.

This expanded coverage would be justified, it seems to me, because the job of law enforcement and fire protection has in many respects become a national responsibility. Fugitives from justice or persons intent on committing crimes are able to travel around the country much more easily and speedily today than ever before. A person killing or injuring a policeman or an arsonist starting a blaze which results in fatalities could easily have come within a few hours or even minutes from another State or could quickly flee from one State jurisdiction to another. Likewise, injuries are often incurred by local policemen and firefighters while they are protecting interstate travelers or those who may have interrupted their journey only temporarily while enroute elsewhere.

It is truly difficult today to draw hard and fast lines which separate jurisdictional responsibility for police and fire prevention functions. These are public employees who are devoted to protecting the lives and property of all persons without regard to their domicile, place of origin, or final destination. Whenever a public safety officer dies or is seriously injured while protecting others, his sacrifice and that of his family have been in the interest of the whole Nation. Accordingly it seems to me that Congress should recognize this national responsibility by helping compensate those who become casualties in the common task of preserving law and order. Our country owes these men no less than a guarantee that neither they nor their dependents will suffer undue economic disadvantage, because of physical harm which has befallen them while answering their call to duty.

AMENDMENT NO. 24

I am also introducing today, Mr. President, an amendment to S. 800, the Victims of Crime Compensation Act. Title III of that bill—a bill which, as a whole, I fully support—provides a payment of $50,000 to public safety officers—including policemen and firefighters—killed in the line of duty. My amendment simply permits the dependents of such a public service officer to choose to be compensated under the Federal Employees Compensation Act instead of receiving the $50,000 payment. For reasons I have already stated, I believe this is a preferable approach. Last year during Senate consideration of a bill similar to title III of S. 800, I introduced an identical amendment. While there was no objection to the thrust of my idea last year, the distinguished senior Senator from Arkansas (Mr. McCLELLAN) suggested that the amendment be withdrawn to permit further study, and I did so. I hope the Senate will agree to the amendment this year, if the bill I introduce today is not passed.

Mr. President, I realize that there are other approaches to solve this problem—approaches I can and will support if my proposal is not accepted. The exact procedure by which families of public safety officers killed or disabled in the line of duty is not as significant as is the principle that Federal assistance in this area is necessary and proper. I hope we will take prompt and effective action this session of Congress to provide benefits to these dedicated public safety officers.

I ask unanimous consent that the text of my bill and my amendment be printed in the RECORD at this point.

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

S. 1084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8191 of title 5, United States Code, is amended to read as follows:

"§ 8191. Determination of eligibility.

"The benefits of this subchapter was available as provided in this subchapter to eligible public safety officers (referred to in this subchapter as 'eligible officers') and their survivors. For the purposes of this Act, an eligible officer is any person who is determined by the Secretary of Labor in his discretion to have been on any given occasion—

"(1) employed as a law enforcement officer or firefighter by a State or a political subdivision of a State,

"(2) an officially recognized or designated member of a legally organized volunteer fire department, or

"(3) serving without compensation as an officially recognized or designated member of a legally organized law enforcement agency of a State or political subdivision of a State thereof,

and to have been on that occasion not an employee as defined in section 8101(1), and to have sustained on that occasion a personal injury for which the United States would be required under subchapter I of this chapter to pay compensation if he had been on that occasion such an employee engaged in the performance of his duty."

(b) The heading at the beginning of subchapter III of chapter 81 of title 5, United States Code, and the item relating to such subchapter in the table of sections at the beginning of such chapter are amended by striking out "LAW ENFORCEMENT" and inserting in lieu thereof "PUBLIC SAFETY."

SEC. 2. The amendments made by the first section of this Act are effective only with respect to personal injuries sustained on or after the date of enactment of this Act.

AMENDMENT NO. 24

On page 51, after line 14, add the following new subsection:

"(e) In lieu of the benefit provided under subsection (a), any recipient eligible under section 527 may elect to receive compensation under the provisions of the Federal Employees' Compensation Act, 5 USC, Chapter 81, as if the public safety officer had been covered by such Act."

By Mr. MONDALE (for himself and Mr. BROOKE):

S. 1085. A bill to promote the foreign policy and best interests of the United States by authorizing the President to negotiate a commercial agreement including a provision for most-favored-nation status with Romania. Referred to the Committee on Finance.

ROMANIAN TRADE ACT OF 1973

Mr. MONDALE. Mr. President, since 1949, the United States has pursued a policy designed to prevent trade with Communist nations from threatening in any way the security or national interest of the United States.

We are still pursuing this basic policy, most notably in our export controls which prohibit the export of U.S. goods or technology which could contribute to the military potential of Communist nations or in any other way be contrary to the national interest of the United States.

But in addition to policies, laws, and regulations such as these, we also carry on our books a number of other provisions which, if they ever indeed contributed to our national interest and/or military security, do not do so today. Some of these restrictions, in fact, seem actually to be counterproductive, contributing to nothing but the economic benefit of our Western competitors and the continued economic and political domination of East Europe by the Soviet Union.

One such policy—surely the most damaging symbol of irrational hostility toward the East—is the denial of most-favored-nation treatment to all nations of Eastern Europe except for Yugoslavia and Poland.

The effect of such a denial is to impose upon the products of the rest of East Europe the old Smoot-Hawley tariff rates. Given such extraordinary discrimination against their products, there is little hope for any major expansion of peaceful, nonstrategic trade in East Europe—the fastest growing market in the world. For, aside from the great political damage rendered by such discrimination, the inability to sell goods to us severely limits the amount of goods they can buy from us, and places an unnatural and irrational limit upon trade in peaceful, nonstrategic goods.

I say "unnatural and irrational" because the discrimination against imports from the East European countries makes neither economic nor political sense.

The denial of most favored nation in no way contributes to our national security. All goods bound for East Europe must be licensed, and the presence or absence of most favored nation adds absolutely nothing to this protection.

Nor does it have any significant economic effect on the nations of East Europe. The denial of most favored nation status, in fact, keeps nothing from the East Europeans which cannot otherwise find its way there from the West—legally and with full concurrence of our Government. All this denial does is to prevent the East Europeans from earning the necessary dollars with which to become customers of U.S. exports in peaceful, nonstrategic goods. It is one more explanation why in 1971, with some 13 percent of total world trade, the United States enjoyed less than 3 percent of the total trade between the East and the West.

Nor, should I add, does the denial of most favored nation make sense in terms of the products against which it most discriminates. If we had reason, for example, to raise special tariffs against certain products from the East European countries, then such tariffs should be imposed with some semblance of precision and reason. I do not happen to think that such discriminatory tariffs should be necessary as long as we have basic protection against dumping and foreign export subsidies. But the denial of most favored nation across the board imposes a totally capricious set of discriminatory tariffs upon the products of these nations, unrelated to specific products or to any coherent economic or trade policy.

Mr. Harold Scott, formerly Deputy Assistant Secretary of Commerce for Domestic and International Business and Director of the Bureau of International Commerce, visited East Europe and had this summary comment to make on the most favored nation problem:

The lack of MFN treatment to all East European countries except Poland is the most discussed major problem. To a degree, this

deterrent while real also is partly psychological. There is a strong feeling among East Europeans that the lack of MFN is a form of punishment. Importers not only pay a higher duty but view such treatment as a symbol of the "unwelcome mat." One of the major purposes of our Mission was an examination, product by product and country by country, of export potential to the United States. Indeed there were many specific product areas where the lack of MFN removed all possibilities. There were, however, many of their products with some U.S. potential, despite the lack of MFN, that had not been aggressively promoted. One can speculate that occasionally the lack of MFN represents a warm security blanket under which Eastern European export enterprises can quite easily hide their lethargy. It is safe and practical to conclude that trade relations will not grow rapidly until the MFN problem is resolved. It is equally sound to conclude that East European countries have specific trade opportunities in the United States today with the existing tariff structure that they are not exploiting to maximum potential.

Actually, we do give most favored nation status to two East European countries: Yugoslavia and Poland. We also grant these two nations special treatment in our export control regulations, Yugoslavia being considered as "West Europe" for such regulations, and Poland—along with Romania—being given preferential treatment over all the rest of the East European countries.

What I am proposing today, Mr. President, is that the President of the United States be given authority to negotiate a commercial agreement with Romania, extending most favored nation to that nation in return for equivalent benefits granted us and in our national interest.

This bill cosponsored by the Senator from Massachusetts (Mr. BROOKE) would grant "most favored nation" status at least to that nation which seems to be, in fact, "most favored" in the eyes of our Government.

In the summer of 1969, after Mr. Nixon concluded his most successful visit to Romania, he and President Nicole Ceausescu issued a joint statement reading:

> The two heads of state devoted particular attention also to the economic relations between their countries. While noting the upward trend which these relations have displayed in recent years they also agreed on the need in the interests of both countries to develop and diversify the economic ties between the United States and Romania. In this connection it was agreed to look for new ways of realizing the potentialities which this important field offers.

In the President's 1971 foreign policy message he declared:

> There are difficulties, which we recognize, attending close political relations between Eastern European nations and the United States. But within these limits there are opportunities for economic, scientific and technological contact which we are prepared to broaden on the basis of mutual benefits.
>
> Our trade with Romania doubled in 1970. We extended credits for the purchase of agricultural commodities and liberalized certain export controls for her benefit. We expanded educational and cultural exchanges and responded with immediate relief in medical supplies, foodstuffs, and other emergency needs when Romania suffered a disastrous flood in 1970.

Romania and Yugoslavia have indicated by their policies a desire for cordial relations with the United States on the basis of reciprocity. Our relations have continued to improve because the pace and scope is determined in the first instance by them. We are responsive, and other countries in Eastern Europe who desire better relations with us will find us responsive as well. Reconciliation in Europe is in the interest of peace.

Mr. President, surely the foreign policy as well as the economic interests of the United States can be furthered by granting most-favored-nation status to Romania.

In 1972, we exported $69.4 million worth of goods to Romania and imported from that nation $31.5 million—a trade surplus ratio of more than 2 to 1. Our exports to Romania last year were four times the 1968 figure of $16.7 million—a sign of the great growth potential present.

Mr. President, it is obvious, in spite of this growth in trade, that Romania, with precious few dollar holdings and almost no way to earn them in this country, cannot continue to maintain such a deficit in her accounts with the United States.

A country cannot buy if it cannot also sell. And we cannot sell if we do not also buy.

I must point out that most-favored nation is not a concession to be given without compensation. The Romanian Trade Act of 1973 does not require the President to grant most-favored nation. Rather, it authorizes him to negotiate a commercial agreement—our part of which would be an extension of most-favored nation treatment, and Romania's part to be the granting of equivalent commercial benefits to the United States.

Mr. President, I think that enactment of this legislation would be sound economics and sound foreign policy, furthering not only the commercial returns from expanded trade, but the political returns from closer ties to this key nation of East Europe.

President Nixon has indicated his full support for obtaining MFN status with Romania once Congress has granted him the authority to do so. I believe we should move quickly to grant this authority, thereby benefiting both the interests of the United States and furthering the cause of improving East-West relations.

Mr. President, I ask that the full text of this bill, the Romanian Trade Act of 1973, 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. 1085

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

SHORT TITLE

SEC. 101. This Act may be cited as the "Romanian Trade Act of 1973."

STATEMENT OF PURPOSES

SEC. 102. The purposes of this Act are—

(a) to maintain United States objectives in building a peaceful, democratic world;

(b) to promote constructive relations with Romania and to provide a framework helpful to private United States firms conducting business relations in Romania by instituting regular government-to-government negotiations concerning commercial and other matters of mutual interest; and

(c) to increase peaceful trade and related contacts between the United States and Romania, and as assistance in meeting United States balance-of-payments problems, to expand markets for products of the United States in Romania by creating similar opportunities for the products of Romania to compete in United States markets on a nondiscriminatory basis.

AUHORITY TO ENTER INTO COMMERCIAL AGREEMENTS

SEC. 103. The President may make commercial agreements with Romania providing most-favored-nation treatment to the products of Romania whenever he determines that such agreements—

(a) will promote the purposes of this Act,

(b) are in the national interest, and

(c) will result in benefits to the United States equivalent to those provided by the agreement to the other party.

BENEFITS TO BE PROVIDED BY COMMERCIAL AGREEMENTS

SEC. 104. The benefits to the United States to be obtained in or in conjunction with a commercial agreement made under this Act may be of the following kind, but need not be restricted thereto:

(a) satisfactory arrangements for the protection of industrial rights and processes;

(b) satisfactory arrangements for the settlement of commercial differences and disputes;

(c) arrangements for establishment or expansion of United States trade and tourist promotion offices, for facilitation of such efforts as the trade promotion activities of United States commercial officers, participation in trade fairs and exhibits, the sending of trade missions, and for facilitation of entry and travel of commercial representatives as necessary.

(d) most-favored-nation treatment with respect to duties or other restrictions on the imports of the products of the United States, and other arrangements that may secure market access and assure fair treatment for products of the United States; or

(e) satisfactory arrangements covering other matters affecting relations between the United States and Rumania, and the improvement of consular relations.

EXTENSION OF BENEFITS OF MOST-FAVORED-NATION TREATMENT

SEC. 105. (a) In order to carry out a commercial agreement made under this Act and, notwithstanding the provisions of any other law, the President may by proclamation extend most-favored-nation treatment to the products of Rumania.

(b) Any commercial agreement made under this Act shall be deemed a trade agreement for the purposes of title III of the Trade Expansion Act of 1962 (19 U.S.C. 1901 et seq.).

(c) Section 231 of the Trade Expansion Act of 1962 (19 U.S.C. 1861) is amended by adding at the end thereof the following new subsection:

"(c) Subsection (a) of this section shall not apply to products, whether imported directly or indirectly, of Rumania, if a proclamation is in effect under section 105(a) of the Rumanian Trade Act of 1973.".

(d) The portion of general headnote 3(e) to the Tariff Schedules of the United States that precedes the list of countries and areas (77A Stat. 11; 70 Stat. 1022) is amended to read as follows:

"(e) PRODUCTS OF CERTAIN COMMUNIST COUNTRIES.—Notwithstanding any of the foregoing provisions of this headnote, the rates of duty shown in column numbered 2

shall apply to products, whether imported directly or indirectly, of the countries and areas that have been specified in section 401 of the Tariff Classification Act of 1962, in sections 231 and 257(e)(2) of the Trade Expansion Act of 1962, or in actions taken by the President thereunder and as to which there is not in effect a proclamation under section 105(a) of the Rumanian Trade Act of 1973;"

(e) Nothing in this Act shall be deemed to modify or amend the Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.) or the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.).

REPORTS TO CONGRESS

SEC. 106. The President shall submit to the Congress an annual report on the commercial agreements, program instituted under this Act. Such report shall include information regarding negotiations, benefits obtained as a result of commercial agreements, the texts of any such agreements, and other information relating to the program.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 136

At the request of Mr. SCHWEIKER, the Senator from Texas (Mr. BENTSEN) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 136, to authorize financial assistance for opportunities industrialization centers.

S. 275

At the request of Mr. HARTKE, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of S. 275 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. 467

At the request of Mr. RANDOLPH, the Senator from West Virginia (Mr. ROBERT C. BYRD) was added as a cosponsor of S. 467, a bill to extend the Public Works and Economic Development Act of 1965, as amended, for 1 year, and for other purposes.

S. 648

At the request of Mr. MCGEE, the Senator from Rhode Island (Mr. PASTORE), the Senator from Nebraska (Mr. CURTIS), the Senator from North Carolina (Mr. ERVIN), the Senator from Nevada (Mr. BIBLE), the Senator from Utah (Mr. MOSS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Iowa (Mr. HUGHES), and the Senator from Maine (Mr. MUSKIE), were added as cosponsors of S. 648, to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes.

S. 649

At the request of Mr. JAVITS, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 649, to provide for the use of certain funds to promote scholarly, cultural, and artistic activities between Japan and the United States, and for other purposes.

S. 793

At the request of Mr. CRANSTON, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 793, the Public Service Employment Act of 1973.

S. 798

At the request of Mr. BURDICK, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 798, 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.

S. 882

At the request of Mr. HARTKE, the Senator from Florida (Mr. CHILES), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 882, to amend section 355 of title 38, United States Code, relating to the authority of the Administrator of Veterans' Affairs to readjust the schedule of ratings for the disabilities of veterans.

S. 896

At the request of Mr. RANDOLPH, the Senator from Minnesota (Mr. MONDALE) and the Senator from Iowa (Mr. HUGHES) were added as cosponsors of S. 896, a bill to amend the Education of the Handicapped Act, and for other purposes.

S. 928

At the request of Mr. ROTH, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 928, to create a catalog of Federal assistance programs.

S. 1036

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. MUSKIE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1036, to amend the Internal Revenue Code of 1954 with respect to legislative activity by certain types of exempt organizations.

SENATE JOINT RESOLUTION 41

At the request of Mr. MCGEE, the Senator from Indiana (Mr. BAYH), and the Senator from Texas (Mr. TOWER) were added as cosponsors of Senate Joint Resolution 41, to authorize the President to issue annually a proclamation designating March of each year as "Youth Art Month."

SENATE RESOLUTIONS 74 THROUGH 78—SUBMISSION OF RESOLUTIONS RELATING TO THE INTERNATIONAL COURT OF JUSTICE

(Referred to the Committee on Foreign Relations.)

Mr. CRANSTON. Mr. President, today, the International Court of Justice is inadequately consulted. Less than 40 cases have been submitted to it in the last quarter of a century. At the moment, only two cases are before it. Its peaceful potential lies in substantial neglect.

As we grope for a final end to the Vietnam war, we must seek rational ways of reducing international tensions and of settling international disputes without resorting to force. We can support worldwide programs designed to stimulate world economic development, stabilize currencies, alleviate hunger, poverty, and disease, and halt international pollution. But without preventive steps to avoid another war, these fine measures may still leave us with ravaged countries and devastated populations. Our reliance upon great military strength and upon alliances with our friends has not kept us out of war. In fact, Vietnam is the fourth war we have fought in 44 years.

Devoting our keenest minds to finding alternatives to armed conflict is not a luxury, but a pressing need. We cannot continue to risk self-destruction by dabbling in peace with one hand and waging war with the other.

We cannot wait for a peace based upon vast, sweeping structural changes within the United Nations, the International Court of Justice, and other institutions created with the hope that they would bring enduring peace. Instead, hope and realism can be combined in a step-by-step approach. We can take measures designed to—

Expand the jurisdiction of the Court by gradual degrees;

Increase the number of cases submitted to it;

Contribute to the clarification and establishment of international legal precedents and principles; and

Develop, slowly but surely, the habit of relying upon the Court for the peaceful resolution of international disputes.

We herewith submit no less than five separate resolutions designed to promote these goals. Some are wide ranging, some are specific, but all are designed to make the Court a sturdier tool in the construction of peace.

The Court's potential has been stunted by a vicious circle. Nations have been unwilling to submit disputes for binding settlement because they do not know what legal principles, rules, and standards the Court will apply. Yet the more nations hold back, the less opportunity the Court has to establish precedents, develop a body of law, and contribute to the clarification of international legal disputes and to the settlement of international differences. By itself, the Court is powerless to break through this web of inaction.

All of our resolutions seek to change this pattern. One requests the United States to submit to the Court a number of relatively minor international territorial disputes with our allies. The areas in question are desolate and largely uninhabited islands in the Caribbean Sea and the Pacific Ocean. The purpose of this resolution is not merely to provide business for the Court, but to demonstrate that taking a case to Court is a friendly act rather than a provocation.

The Department of State acknowledges some 28 territorial disputes involving the United States. Three are islands or cays in the Caribbean; namely, Quinto Sueno, Roncador Cay and Serrana Bank, known as the Coral Bank Area. They lie roughly within an area roughly 60 miles square, 120 miles east of Nicaragua and 250 miles north of Panama.

The basis for the U.S. claim of sovereignty over these islands dates back to the Guano Act of 1856, passed by the U.S. Congress. Guano is a substance composed chiefly of the excrement of seafowl, and once was used extensively as a fertilizer. The Guano Act permitted jurisdiction to

be acquired and the sovereignty of the United States extended over occupied and unclaimed islands containing guano deposits.

The act states that the President could determine an island to be "appertaining to the United States" and claim it upon a finding that: First, a deposit of guano had been discovered upon the island by an American citizen; second, the island was not within the lawful jurisdiction of any other government; third, it was not occupied by the citizens of any other government; fourth, the discoverer had taken and kept peaceable possession thereof in the name of the United States; fifth, the discoverer had given notice of these facts as soon as practicable to the State Department, on his oath; and sixth, satisfactory evidence was furnished to the State Department that the island was not taken out of the possession of any other government or people. Upon determining that the island appertained to the United States, the President was authorized by the act to allow the discoverer or his assigns the exclusive right, subject to termination by Congress at any time, of occupying the island for the purpose of obtaining and selling guano.

Guano was discovered on each of the three islands in the 1860's. Each was subsequently certified and listed as a guano island. However, the supply of commercially exploitable guano on each has long been exhausted. In 1919 each was proclaimed by the President to be under the sole and exclusive jurisdiction of the United States, with portions of their areas declared to be reserved for lighthouses. The latter are still in operation, but the islands host neither U.S. bases nor U.S. military personnel. The only immediate U.S. interest in the area appears to be the maintenance of navigational aids.

The other nations claiming part or all of these islands—Colombia, Honduras, and Nicaragua—have all filed a declaration accepting the compulsory jurisdiction of the World Court. The only remaining step is for one of the parties to take the case to the Court for a ruling.

In the Pacific Ocean, the United States claims 25 islands, of which seven are administered by New Zealand, 16 by Great Britain, and two by the United States and Britain together. None of the American claims has been actually pressed since the U.S. entry into World War II.

The first group of islands, claimed by the United States and Great Britain, are called the Line Islands. They include Carolina Atoll, Christmas Island, Flint Island, Malden Island, Starbuck Island, and Vostok Island. These islands were all bonded under the Guano Act.

The four islands claimed by the United States and Great Britain in the Ellice group are not guano islands. They are: Funatuti Atoll, Nukufetau Atoll, Nukulailai Atoll, and Nurakita. Here the U.S. claim gathered momentum in the 1930's, when Pan American Airways was seeking stopovers for the first flights to Australia. The islands are not, however, suitable for today's jets.

The Phoenix Islands are the last group claimed by both the United States and Britain. They include six atolls, which have little apparent importance to either country, and two islands, Canton and Enderbury. In 1939, the two countries agreed to administer the two islands jointly until 1989, when the question of ownership will be reconsidered.

Of the areas claimed by the United States and New Zealand, three are atolls in the Tokelau group: Atatu Atoll, Fafaofu Atoll, and Nukunono Atoll. Under the Tokelau Islands Act of 1948, New Zealand included them within her territorial boundaries.

The other areas claimed by the United States and New Zealand are the Northern Cook Islands. They are Danger Atoll, Manahiki Atoll, Rakahanga Atoll, and Penrhyn Atoll.

The great majority of these 25 disputed claims in the Pacific have lain dormant since World War II. They are particularly suitable to adjudication because Great Britain and New Zealand are our allies, each with a fine tradition of respect for international law.

Another resolution seeks to expand the number of cases submitted to the Court. It expresses the sense of the Senate that future treaties and amendments should include clauses providing that disputes arising from their application or interpretation should be referred to the Court or other appropriate body for settlement. This resolution could possibly be applicable to any disputes arising in the future over the Vietnam settlements. All nations would have to agree to such a course. But judging from North Vietnam's attitude toward international bodies, it is doubtful whether Hanoi would agree to World Court jurisdiction.

The principle involved in this revolution is consistent with administration policy. For example, speaking before the American Society of International Law in April 1970, Secretary of State William P. Rogers made the following encouraging statement:

> In the future, the Department of State will examine every treaty we negotiate with a view to accepting, wherever appropriate, the jurisdiction of the International Court of Justice with respect to disputes arising under the treaty. We are presently exploring the possibility of submitting several other disputes to the Court.

On February 9, 1972, President Nixon declared his willingness to consider the submission of particular disputes to the Court. He specifically reaffirmed his offer to do so in the case of a fishing dispute with Ecuador.

And way back in 1959, in a speech at the University of Chicago Law School, the then Vice President Nixon suggested that—

> The United States should affirmatively explore ways in which its controversies with other nations can be submitted to and decided by the International Court of Justice . . . One practical step is that the United States should take the initiative in proposing that in future international agreements provisions be included to the effect that disputes which may arise as to the interpretation of the agreement should be submitted to the International Court and that the nations signing the agreement should be bound by the decision of the Court in such cases.

Another resolution is directed toward several different ends. It directs the President to undertake all appropriate steps to establish regional courts of original jurisdiction with provision for appeal to the World Court. It also instructs the President to seek to amend the United Nations Charter so as to permit regional organizations to request advisory opinions from the Court. Presently, only specialized agencies of the United Nations can do so.

This same resolution is concerned with the nuts-and-bolts aspect of the Court's operations as well. One clause applies to judges. The judges are currently undertaking a review of their own rules of procedure, so that proposals on that subject would be premature. We can, however, seek to improve the process whereby judges are selected. Our resolution seeks to insure that personal qualifications will outweigh political bargains, while still permitting the representation of major legal systems or legal cultures. Finally, the resolution would facilitate access to the Court by providing for occasional meetings outside of the Hague at places more convenient to the various parties to the statute.

Another resolution would permit the Security Council, by an affirmative vote of nine states, including 80 percent of the permanent members, to refer a dispute to the Court for adjudication. Although article 36(3) of the United Nations Charter reminds the Security Council that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice, the Council has followed no regular procedure for referring cases on its own. Our resolution would encourage the development and expansion of such a practice.

The last resolution would grant access to the Court to private individuals, business organizations, and other legal entities or persons. The general precedent behind it is the European Court of Justice, which has handled some 1,500 cases to date. Under the terms of the resolution, a private citizen of one country, for example, could bring suit against a corporation in another country. Responsibility for enforcing the decision would rest with the courts of the states which are parties to the statute of the Court. Amending the statute of the Court in this direction would both give more business to the Court and prevent a state-by-state monopoly of international legal transactions.

The outstanding fact of life which blocks the rule of world law is the will of nations. Some will quote this fact to shrug off peacemaking efforts. Yet the logic of national interest points to peace, not to war. We should not see the Court as a threat to our right to make our own choices and determine our own course. On the vital issue of war and peace, these choices are highly illusory. Under prevailing circumstances, leaders in other lands can make decisions which plunge

us into armed conflict. Instead, we should see the Court as a plausible alternative to intervention and war.

Speaking to the Academy of Political Science in 1959, Richard Nixon, then Vice President of the United States, said:

> The time has now come to take the initiative in the right direction of establishment of the rule of law in the world to replace the rule of force. . . . Our primary problem today is not the creation of new international institutions, but the fuller and more fruitful use of the institutions we already possess.

Just as we must have order and justice under law to prevent violence on the streets and in the homes of America, so we must have order and justice under law in the world to stop future wars—or at least to limit their scope and bring them to a quick end should they break out. Strengthening the World Court and giving it a more active role in international relations are basic steps in the slow but inevitable development of international law, order, and justice.

Mr. President, the time for strengthening the International Court of Justice is long overdue. Attitudes must change, but instead of waiting passively we can give them a push.

The following summarizes the five resolutions Senator TAFT and I are introducing:

SUMMARY OF WORLD COURT RESOLUTIONS

These resolutions are designed to:

Expand the jurisdiction of the Court by gradual degrees;

Increase the number of cases submitted to it;

Contribute to the development of international law; and

Develop the habit of relying upon an expanded World Court system for the peaceful resolution of international disputes.

Specifically, they are:

First. The "28 Disputes" resolution.—The President would direct the Secretary of State to seek to submit to the Court approximately 28 territorial disputes with our allies involving desolate and largely uninhabited islands in the Caribbean Sea and the Pacific Ocean.

Second. The "Future Treaties" resolution.—This resolution attempts to include, in future treaties, clauses stipulating explicitly that disputes arising from the interpretation of these treaties should be subject to the Court's jurisdiction.

Third. The nuts-and-bolts resolution. This resolution would help to:

Set up regional courts of original jurisdiction, with provision for appeal to the World Court;

Permit regional organizations to request advisory opinions from the Court instead of states and specialized U.N. agencies alone;

Improve the procedure whereby judges of the Court are selected; and

Encourage the Court to exercise its functions outside of The Hague from time to time, at places more convenient to the parties of the dispute.

Fourth. The "Security Council" resolution: The goal of this resolution is to allow the Security Council to refer a dispute to the Court for settlement. Nine votes would be required, including 80 percent of the permanent members.

Fifth. The "Individual Access" resolution: This resolution is directed toward granting access to the Court to private individuals, business organizations, and "other legal entities or persons." A private citizen, for example, could bring suit against a corporation in another country.

It is planned that hearings on the general subject of strengthening both the Court and the U.N. will be held this spring.

Mr. President, I ask unanimous consent that the text of the five resolutions appear at this point in the RECORD.

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

S. RES. 74

Resolution expressing the sense of the Senate with respect to the submission of United States territorial disputes to the International Court of Justice

Whereas the adjudication of disputes which affect neither the national security nor the vital interests of the parties concerned is the most practical and immediate way to develop and strengthen an international judicial system;

Whereas the International Court of Justice is today virtually moribund and must be used by parties to the Statute of the Court if it is to fulfill its purpose;

Whereas the submission of cases to the International Court of Justice for the binding settlement of disputes between friendly States is not a provocative gesture but rather a step toward international peace through law;

Whereas the submission of such disputes will give the Court the opportunity to develop a body of law and legal precedent; and

Whereas the United States has contributed greatly to the development of international law and seeks an ordered world under law; now, therefore, be it

Resolved, That it is the sense of the Senate that the President is requested to direct the Secretary of State forthwith to seek to submit to the International Court of Justice for binding decisions as many as possible of the approximately 28 territorial disputes involving our country and a number of our close allies over desolate and largely uninhabited islands in the Caribbean Sea and the Pacific Ocean.

SEC. 2. It is the further sense of the Senate that the President should direct the Secretary of State to make a full written report, to the Senate and to its Committee on Foreign Relations within one year of the adoption of this resolution and a report for each of the five years thereafter, of actions taken and progress achieved in submitting such disputes to the Court.

S. RES. 75

Resolution expressing the sense of the Senate with respect to the adjudication of disputes arising out of the interpretation or application of international agreements

Whereas the United States is committed to the universal rule of law;

Whereas the effective rule of law requires that provision be made for an agreed third party to settle disputes as to the interpretation of treaties and other international agreements; and

Whereas the absence of such provisions has often resulted in prolonged and acrimonious disputes as to the meaning of these treaties or other international agreements or the existence of a violation of the obligations incurred under them: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States endeavor to include, in all future treaties and other international agreements to which the United States shall be a party or which shall be negotiated subsequent to the adoption of this resolution operative clauses providing that any dispute arising from the interpretation or application of these treaties and international agreements which is not settled by agreement between or among the states concerned shall be subject to the jurisdiction of the International Court of Justice or other appropriate body.

S. RES. 76

Resolution expressing the sense of the Senate with respect to establishing regional courts within the International Court of Justice, increasing the categories of parties which may request advisory opinions from the International Court of Justice, selecting judges of the International Court of Justice, and having the International Court of Justice consider cases outside the Hague

Whereas the International Court of Justice has been inadequately utilized in the settlement of international disputes;

Whereas it is necessary for the Court to become more accessible and more responsive to the needs of the world community;

Whereas States and regional agencies are now precluded from seeking advisory opinions of the International Court of Justice and such preclusion hinders the peaceful settlement of international disputes;

Whereas the effective rule of law requires the election of impartial judges of high moral character and recognized competence in international law;

Whereas the Charter of the United Nations recognized the importance of the contribution of Members to the maintenance of international peace and security and to the other purposes of the organization;

Whereas the location of the seat of the International Court of Justice in The Hague is remote from non-European parties to the Statute; and

Whereas paragraph 1 of Article 22 of the Statute of the International Court of Justice provides that the establishment of the Court at The Hague shall not prevent the Court from sitting elsewhere: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should undertake all appropriate steps to have amendments to the Statute of the International Court of Justice adopted and entered into force which would—

(1) establish regional courts of original jurisdiction under the International Court of Justice to consider and decide specific disputes at the request of the parties, with judges selected by agreement of the parties to sit at any location convenient to them; and

(2) provide that decisions of such regional courts may be appealed to the International Court of Justice for its consideration and decision.

SEC. 2. It is further the sense of the Senate that the President should propose the following amendments to the General Assembly of the United Nations to article 96 of the United Nations Charter (relating to advisory opinions of the International Court of Justice), and take all appropriate measures to have such amendments adopted and entered into force in accordance with article 108 of such Charter:

(1) Amend paragraph 2 by striking out "and specialized agencies" and inserting in lieu thereof "specialized agencies, and regional organizations", so that regional organizations may also request advisory opinions of the International Court of Justice.

(2) Add the following new paragraph at the end thereof:

"3. Any two or more States may jointly request advisory opinions of the Court on any legal questions relating to a dispute between them."

SEC. 3. It is further the sense of the Senate that the President should undertake appropriate steps to improve, within the existing provisions of the Statute, the procedure whereby persons are nominated and elected to serve as judges of the International Court of Justice.

SEC. 4. It is further the sense of the Senate that the President should undertake all appropriate steps to encourage the International Court of Justice, from time to time, to sit and exercise its functions outside The Hague at places more convenient to the various parties to the Statute of the International Court of Justice.

S. RES. 77

Resolution expressing the sense of the Senate with respect to the jurisdiction of the International Court of Justice

Whereas peace between nations will be placed on a sounder foundation when they agree to follow scrupulously the terms and spirit of chapter VI of the Charter of the United Nations referring to the pacific settlement of disputes;

Whereas paragraph 3 of article 36 of the Charter provides that "legal disputes should as a general rule be referred by parties to the International Court of Justice"; and

Whereas the United States is a party to the Statute of the International Court of Justice and is dedicated to the principles by which it was founded and is guided: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should undertake negotiations with the states parties to the Statute of the International Court of Justice, which have qualified their acceptance of the compulsory jurisdiction of the Court, to have each party agree (1) to declare and deposit a declaration under article 36 of the Statute, after ratification of the declaration in accordance with the constitutional processes of such party, that the party recognizes as compulsory ipso facto and without a special agreement, and without reservation, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in any legal dispute to which it is a party, in which the Security Council by an affirmative vote of nine members, including eighty per cent of the permanent members, has requested that the dispute be referred by the parties to the Court, and (2) that the declaration will not be subject to any other condition.

S. RES. 78

Resolution expressing the sense of the Senate with respect to access to the International Court of Justice

Whereas the International Court of Justice at the Hague is inadequately utilized;

Whereas the peaceful adjudication of international disputes should be available to all citizens and groups; and

Whereas the European Court of Justice has established a working precedent whereby certain disputes between citizens and groups from different nations can be settled by binding adjudication: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should undertake negotiations with states parties to the Statute of the International Court of Justice to amend that Statute to authorize that Court to accept jurisdiction of cases it deems appropriate so as:

(1) to permit private individuals, business organizations, and other legal entities or persons to accept the compulsory jurisdiction of the Court under Article 36(2) of the Statute, and to be parties in cases before the Court in disputes arising between private individuals, business organizations, and other legal entities or persons from different states; and

(2) to provide that decrees and judgments of the International Court of Justice arrived at under (1) above shall be given full faith and credit by the courts of any state accepting jurisdiction of the International Court of Justice.

(3) to permit all parties in any civil action brought in any court of any State accepting jurisdiction of the International Court of Justice to petition the International Court of Justice for the removal of such action to the International Court of Justice or any regional court thereof.

Mr. TAFT. Mr. President, the International Court of Justice, once the best hope of mankind, has been permitted to atrophy. At the present time only two cases are before the Court and less than 40 cases have been considered by it during the last 25 years. The United States has not filed a case with the Court since 1959.

On April 25, 1970, Secretary of State Rogers stated:

A major objective of the Nixon Administration is to further the development of a stable and progressive world community based on an accepted system of international law. . . . We should try to breathe new life into the neglected—in fact moribund—International Court of Justice.

If the International Court is to be more than an impotent shield, its jurisdiction must be expanded so that it can achieve its fullest potentialities.

With expanded jurisdiction the Court can establish international legal precedents and principles which can be utilized in resolving international disputes. In this way nations and other parties can begin to rely upon the Court.

In 1970, Secretary Rogers drew a parallel to our own history saying:

We can recall the early experience of our own Federal courts, which attracted legal business through increasing popular confidence in their handling of what at first were principally routine matters.

Rather than expecting the Court to settle major international disputes, we should develop its jurisdiction and capability for handling routine but important international questions so that confidence in the Court as an international judicial body can be established.

The extent to which the International Court has withered can be illustrated by the fact that the United States has some 28 territorial disputes at the present time. The majority of these are minor and involve isolated and uninhabited islands in the Caribbean and the Pacific. Resolution of these disputes by the International Court would be insignificant in terms of our national security.

One of these disputes involves three small islands in the Caribbean: Quinto Sueno, Roncandor Cay, and Serrano Bank. The basis for U.S. sovereignty dates back to the Guano Act of 1856. This magnificent piece of legislation provides in essence, that whoever finds bird manure in the ocean gets to keep it. Now if the Court cannot be entrusted to decide who owns these islands of bird manure, one wonders what it can decide.

Clearly there is a need to infuse the Court with new jurisdiction, new responsibility, and new authority, if it is to meet the demands of a contemporary international community and contemporary international business transactions.

The resolutions which Senator CRANSTON and I are introducing today are specifically designed to expand the jurisdiction of the International Court, increase the number of cases submitted to it, assist in the development of international law and develop reliance upon the Court for the possible resolution of international disputes.

The first resolution would authorize the submission to the Court of the 28 territorial disputes in which the United States is presently involved. The second resolution would give the Court jurisdiction over disputes arising from the interpretation of new treaties and international agreements. The third resolution would set up regional courts of original jurisdiction with appellate jurisdiction in the International Court at Hague. This resolution would also permit regional organizations to request advisory opinions from the Court, would improve the procedure for the selection of judges, and would encourage the Court to sit outside of the Hague at places more convenient to the parties.

The fourth resolution would permit the security council to refer disputes to the Court upon the vote of nine members, including 80 percent of the permanent members. The final resolution is one which I believe may well be the most significant. This resolution would permit the Court to accept jurisdiction over cases involving private parties where the parties are from different nations. Under this resolution disputes between American corporations and foreign corporations could be resolved in an international forum. Decrees and judgments of the International Court in such cases would be given full faith and credit by the courts of any nation accepting jurisdiction of the International Court of Justice. This full faith and credit provision would give the International Court the authority with respect to international disputes that Federal courts have with respect to diverse cases in the United States. The resolution would also permit all parties in any civil action, in any court, to petition the Court for the removal of such action to the International Court for resolution.

Under this resolution the Court would be able to establish its own criteria for the acceptance of jurisdiction in cases it deems appropriate. Obviously it is not the intent of this resolution to have the Court undertake divorce cases, landlord and tenant disputes, and other cases not suitable for resolution in an international forum. But it is the purpose of this resolution to permit multinational corporations and others to utilize the Court as an effective and impartial forum for the resolution of trade issues, patent disputes, and other business arrangements which may transcend national boundaries. The Court could certainly become an appropriate forum for these issues.

A workload of less than two cases a year hardly justifies the existence of the Court. Its magnificent building at the Hague could be put to better use as a museum. I, for one, believe that the complexities of international disputes and

the increasing contact between nations and businessmen of different nations indicates that the Court must have an important role to play in the years ahead. If we are to develop workable and meaningful international legal machinery the time has come for us to make the commitment which these resoltuions reflect.

In 1960 the Republican Committee on Program and Progress published a book entitled, "Decisions for a Better America," which stated:

We believe that the rule of law must one day replace the use of force among nations and that we must not lose sight of this principle as we pursue our goal of freedom for all peoples.

For example, we can encourage the wider use of the International Court of Justice by member nations in cases where differences are susceptible of settlement by the Court. We further believe that the United States should, along with other states, extend the jurisdiction of the Court by incorporating into future treaties, in specific cases where the Senate approves, a provision requiring submission to the Court of disputes involving interpretation of their terms, and accepting the obligation of abiding by the Court's decision.

These are not principles for Republicans alone. They are principles which all Americans should espouse if we are to have an effective international forum for the resolution of international disputes.

SENATE RESOLUTION 79—SUBMISSION OF A RESOLUTION COMMENDING THE PRESIDENT CONCERNING THE RELEASE OF AMERICAN PRISONERS OF WAR

(Referred to the Committee on Foreign Relations.)

Mr. BELLMON. Mr. President, every Member of the Senate is fully aware of the tense conditions still existing in Southeast Asia. We are also aware of the immense importance that actions of this body have on public opinion both here in the United States and in world capitals around the world. Therefore, I feel it is essential at this time for the Government of this country, and particularly for the Senate, to present a united front behind President Nixon's efforts for the peace that has been won at such high cost in Southeast Asia and also to secure the rapid and full release of our POW's and the accounting of those who are missing in action in Southeast Asia.

To help carry out this objective, I am today submitting a resolution which commends the President of the United States for his efforts to achieve the complete return of American prisoners of war from Vietnam and to express the sense of the Senate that this condition be imposed before any aid for reconstruction may be provided to North Vietnam.

The resolution is short, and I ask unanimous consent that it be printed in full in the RECORD at this point.

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

S. RES. 79

Whereas President Nixon's perseverance throughout a long and difficult period in American history ultimately resulted in the signing of peace accords on January 27, 1973, which provided for a cease-fire in Vietnam, and agreements entered into in connection with those accords provided for the withdrawal of United States forces and military personnel from South Vietnam within 60 days, for the release during that 60-day period of all American servicemen and civilians captured and held throughout Indochina, and for the fullest possible accounting of those missing in action;

Whereas the United States has lived up to its agreement by reducing the number of American troops in Vietnam from 24,000 on January 27, 1973, to 11,724, a reduction of more than 50 percent;

Whereas President Nixon, in his role as Commander-in-Chief, has made the safe return of American prisoners a top priority item in the peace negotiations, the United States has acted in good faith in complying with the terms of the peace accords, and President Nixon is right in insisting that North Vietnam do likewise; and

Whereas, in view of the fact that this country has spent more than $100,000,000,000 in Southeast Asia and some 46,000 young Americans have lost their lives in the Vietnam conflict, it would be extremely unwise to refuse to invest a reasonable amount of economic aid to help guarantee that the results which were paid for so dearly are not now lost, and the President's plan to provide reconstruction aid to Vietnam, including North Vietnam, has historical precedence and should be recognized as a potential investment in peace for the future of Southeast Asia, but should not be granted unless certain conditions are met beforehand: Now, therefore be it

Resolved, That—

(1) the President of the United States, Richard Nixon, be commended for rightfully making firm demands on North Vietnam to live up to its agreement regarding the return of American prisoners of war; and

(2) it is the sense of the Senate that any reconstruction aid for North Vietnam should be contingent upon the conditions set forth in section 2 of this resolution.

Sec. 2. The conditions referred to in the first section of this resolution are that:

(1) North Vietnam should completely meet its obligations under the Vietnam and Laos ceasefire agreements, including the return of all known American prisoners of war within the time period agreed upon.

(2) North Vietnam should cooperate fully in an effort to locate or give an accounting for the more than 1,500 Americans missing in action.

(3) The United States should obtain firm assurances from other countries, including Japan, the Western European countries, the Union of Soviet Socialist Republics, and the Peoples Republic of China, that they are willing to contribute substantial amounts of aid.

(4) Other spending priorities of the United States, including funds for education, health, housing and other domestic programs, should be given full consideration in determining the amount of aid to be given to Vietnam, since these programs represent an investment in the future of citizens of this country.

AMENDMENT OF RULE XXV OF THE SENATE RELATIVE TO OPEN AND CLOSED SESSIONS OF COMMITTEES—AMENDMENT

AMENDMENT NO. 23

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

Mr. ROTH. Mr. President, on Tuesday, March 6, Senators BROCK, CHILES, COOK, HUMPHREY, MATHIAS, STEVENSON, and I intend to offer an amendment to Senate Resolution 69, a resolution to amend rule XXV relative to open and closed sessions of committees. Our amendment has been cosponsored by Senators BAYH, CLARK, CRANSTON, GRAVEL, HASKELL, HATHAWAY, HUGHES, MCGOVERN, NELSON, PACKWOOD, PERCY, PROXMIRE, and STAFFORD.

We will have much to say about the purpose of this amendment on Tuesday. For now, I ask unanimous consent that the text of the amendment be printed in the RECORD as well as a copy of the "Dear Colleague" letter a number of us sent out 2 days ago.

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

AMENDMENT NO. 23

Beginning on page 1, line 5, insert the following: strike out all through the end of the resolution and insert in lieu thereof the following:

"(b) All meetings for the transaction of business, including sessions for marking up bills or resolutions, of each standing committee of the Senate or subcommittee thereof, other than for the conduct of hearings (which are provided for in section 112(a) of the Legislative Reorganization Act of 1970), shall be open to the public except when the committee or subcommittee, in open session and with a quorum present, by majority vote conducted by roll call, determines that all or part of the remainder of the meeting on that day shall be closed to the public."

TEXT OF "DEAR COLLEAGUE" LETTER

DEAR COLLEAGUE: As the sponsors of Senate legislation (S. Res. 22, S. Res. 65, and S. 260) designed to ensure that Senate committee meetings are as open to the public as possible and that standard procedures and rules for open and closed sessions are adopted by all Senate committees and subcommittees, we are planning to offer an amendment to S. Res. 69 to further these goals.

The present language of S. Res. 69 requires that committee business meetings be closed unless a committee majority decides to open them. We believe that the presumption should be on open committee meetings. We recognize, of course, that there is committee business which must, in the public interest, be considered in executive session. But, in a democracy, the proper approach should be to insist that the legislative process be public except when there is a compelling reason for secrecy. Accordingly, our amendment requires that all committee meetings be open unless the committee majority decides, by roll call vote, that it is necessary to move into executive session.

In shifting the presumption from secrecy to openness, we feel that the Senate will be strengthened as an institution. As Common Cause and many others have pointed out, excessive committee secrecy has contributed to an erosion of public confidence in Congress. We believe that a greater effort toward openness will help put the people in closer touch with the business of their Senate and make the Senate more accountable to the people.

VICTIMS OF CRIME ACT OF 1973—AMENDMENT

AMENDMENT NO. 24

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

Mr. BAYH submitted an amendment, intended to be proposed by him, to the bill (S. 800) 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 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. BAYH's remarks on the submission of amendment No. 24 are printed under "Statements on Introduced Bills and Joint Resolutions")

ADDITIONAL COSPONSOR OF AMENDMENT

AMENDMENT NO. 20

At the request of Mr. PROXMIRE, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of amendment No. 20, intended to be proposed to the bill (S. 929) to amend the Par Value Modification Act.

NOTICE OF HEARINGS ON DAIRY PRODUCTS

Mr. HUDDLESTON. Mr. President, the Subcommittee on Agricultural Production. Marketing, and Stabilization of Prices of the Committee on Agriculture and Forestry will hold a hearing on Thursday, March 15, on S. 548 and S. 622, to provide that price support for milk and dairy products shall not be less than 85 percent of parity during the 1973 marketing year. The hearing will be in room 324, Russell Office Building, beginning at 10 a.m. Oral presentations will be limited to 10 minutes, and anyone wishing to testify should contact the committee clerk as soon as possible:

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an extension of the period for the transaction of routine morning business, not to exceed 10 minutes, with statements therein limited to 3 minutes.

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

ORDER FOR RECOGNITION OF SENATOR HASKELL ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, March 6, 1973, immediately following the recognition of the two leaders or their designees under the standing order, the distinguished Senator from Colorado (Mr. HASKELL) be recognized for not to exceed 15 minutes.

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

ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Virginia will state it.

Mr. HARRY F. BYRD, JR. Mr. President, are we in the morning hour now?

The PRESIDING OFFICER. The Senate is in the period for the transaction of routine morning business, Senator.

Mr. HARRY F. BYRD, JR. I thank the Chair.

THE PEKING AGREEMENT

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch published a thoughtful editorial on Wednesday, February 28, 1973, headlined "The Peking Agreement." It deals with relations between the United States and China.

The Senator from Virginia spoke on behalf of President Nixon's proposed trip to China last year. It seems to me it is important that there be a dialog between these two great nations. I was pleased to note the President's trip to China. The proposal brought back from Peking recently by Dr. Kissinger, the President's Special Assistant, has much merit. I would hope and expect that this will lead to permitting the newsmen of both countries to visit each country because the more contact there is among the nations of the world, the better off everyone will be.

In evaluating the growing contracts between the United States and Communist China, however, it is impossible to ignore one especially troublesome question, and that is the question the Richmond Times-Dispatch editorial deals with; namely, how much further can the United States go in this direction without receiving from Peking an ultimatum on the issue of Taiwan.

Personally, as much as I want to see cordial relations established between Red China and the United States, I would hope that we would not throw overboard our long-time Chinese friends in Taiwan.

Mr. President, I ask unanimous consent to have the editorial published in the Richmond Times-Dispatch printed in the RECORD.

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

THE PEKING AGREEMENT

With the American participation in the Vietnam war now coming to an end, it was to be expected that Washington and Peking would begin to take additional steps to improve their relations, in furtherance of a process President Nixon started on his ice-breaking journey to China one year ago this month.

But the news brought back from the Orient this time by America's Marco Polo—Dr. Henry Kissinger—is surprising for the giantness of the next step in the emerging Sino-American rapprochement.

The two nations are establishing diplomatic relations in everything but name. Those "liaison offices" to be set up in each other's capital will function as embassies and their chiefs will function as ambassadors—they just won't be called that. By this convenient piece of diplomatic obfuscation, Kissinger and his Chinese hosts managed to skirt the major remaining issue dividing these two giants of East and West: the status of the Nationalist Chinese regime on the island of Taiwan.

With every other government in the world, the Communist Chinese have uncompromisingly insisted that diplomatic relations be severed with Taiwan before formal relations could be established with Peking. But, uncharacteristically, the Maoist Chinese have made an exception for the U. S. They've done a little horse-trading, worthy of the most skilled wheeler-dealer in a Western parliament. And contrary to the dire predictions of many a critic, Mr. Nixon has been able to pull off a normalization of relations with mainland China without ditching this nation's honorable commitment to the freedom of 14 million persons on Taiwan. This looks like another bright foreign-policy feather in the cap of the Nixon-Kissinger team.

The Chinese no doubt have their motives for accepting at this time a continued American presence in the Pacific. One speculation given much currency has to do with the fear of the massed Russian armies on the border, and the general desire of the Chinese that the Americans act as a counterweight to expanding Soviet influence in Asia. For its part, the U. S. derives many practical benefits from opening the door to China again. Both nations may eventually benefit from increased economic trade, although projected exchanges are still just a minuscule portion of overall U.S. trade.

The U. S. range of foreign policy options is increased considerably by an end of attempts to "isolate" the world's most populous nation. It will have to be made clear to the Russians, however, that the latest big step in the China policy is in no way a step back from improved Washington-Moscow relations, which is an equally essential component of the new multi-polar politics of detente.

In evaluating the growing contacts between the United States and Communist China, it is impossible to ignore one especially troubling question: How much further can the United States go in this direction without receiving from Peking an ultimatum on the issue of Taiwan? At a press conference following his return to Washington, Kissinger emphasized that the United States continues "to maintain diplomatic relations with Taiwan," and that there "exists no immediate plan for any withdrawals" of American troops from the island. This is reassuring. But it is likely that Communist China will eventually insist that the United States abandon the Nationalist regime, which would be a high price to pay for the dubious friendship of a totalitarian country whose philosophy is the antithesis of America's respect for individual freedom and the dignity of man.

QUORUM CALL

Mr. HARRY F. BYRD, JR. 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. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ADDITIONAL STATEMENTS

SWEDISH TELEVISION INTERVIEW

Mr. ROBERT C. BYRD. Mr. President, on Thursday, February 22, I was interviewed by a correspondent of the Swedish Broadcasting Corp. The 15-minute interview was scheduled to be shown in Stockholm this past weekend.

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

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

TEXT OF A SWEDISH BROADCASTING CORP. INTERVIEW WITH U.S. SENATOR ROBERT C. BYRD

(Broadcast in Stockholm on the weekend of February 24–25)

JAMES FAXEN (SBC Washington Correspondent). Why are you opposed to aid to North Vietnam?

Senator BYRD. I cannot support any foreign aid program while funds are needed for important projects in my own state of West Virginia, and for other important projects in the other 49 states. Furthermore, I just cannot bring myself to support foreign aid for a country which still has military forces in South Vietnam, which has not renounced its intentions to take over South Vietnam, and which continues to have a very strong enmity toward the United States.

FAXEN. What about the strong tradition of the United States to give foreign aid to its enemies after the war has ended?

BYRD. There is not a traditional policy. We have had rebuilding programs for Germany and Japan, but those were different circumstances. Those countries surrendered unconditionally; their governments were destroyed; their military capabilities were destroyed. It was enlightened self-interest that led us to help those countries get back on their feet. The Soviet Union was poised on their borders, and possibly ready to march into Western Europe and expand its influence.

FAXEN. There are those who point out that the President made a commitment to give aid to North Vietnam when the peace treaty was signed. Do you think there is a commitment?

BYRD. The President may have made some kind of commitment through Mr. Kissinger. But I don't feel bound by that commitment, because under our Constitution any monies that are spent have to come out of the treasury by an act of Congress. The President should have taken Congress—or at least the leaders of Congress—into his confidence before he made such a commitment.

FAXEN. Our country of Sweden now has about 400 or so draft dodgers and deserters. And, apparently, all or most of them would like to go home. So, the whole issue of amnesty is very important to these men. How do you view amnesty?

BYRD. I am opposed to it.

FAXEN. Why are you opposed to it?

BYRD. When I say I am opposed to it, I have reference only to a general, or blanket amnesty. I feel that these people chose to go to Canada or Sweden, and they let down their country. I think that if your country were to get into a war, they'd be the first to leave it. They didn't see fit to do their duty; they chose to run away. Others had to take their place. It would be a great disservice to those who went to Vietnam, to the thousands who were wounded, and to the families and memories of more than 46,000 Americans who died there. Moreover, I think it would be bad for the future security interests of this country if these people were to be welcomed back with open arms, so to speak. It would also be a disservice even to those Americans who chose to go to jail, rather than to be drafted.

FAXEN. This country has a tradition of granting amnesty after wars, doesn't it?

BYRD. When we say it has a tradition of amnesty, that's sort of sloppy journalism. We've had only four war-related amnesties since the Civil War, and they really didn't amount to much. President Coolidge pardoned 100 men who deserted between the time World War I ended and at the time the official armistice was signed. President Roosevelt amnestied 1,500 men—15 years after World War I had ended, and only after all had served jail terms. President Truman, I believe, granted two amnesties; but they involved probably less than 10 percent of the World War II draft evaders and deserters. So there really hasn't been any amnesty that would compare with the kind of amnesty we're talking about here. Now your country—I have nothing against your country for harboring draft evaders and deserters. It has treated them like any other immigrants to Sweden. So I don't mean anything against your country when I say this: I recall that your own minister of immigration indicated some time ago that, of about 585 American draft evaders and deserters in Sweden more than 110 have been involved in major crimes—so that's about 20 percent of the total. As far as I'm concerned, they can stay there.

FAXEN. Your government has requested that Sweden not send an Ambassador to the United States. Given the now-cool relations between our two countries, do you think that was the proper diplomatic action to take?

BYRD. I do. I think that by any reasonable diplomatic standard, the response for called for. I don't question the sincerity of your Prime Minister, Mr. Palme. But I think he gave too great a priority to Vietnam. And, of course, he may have been trying, at least partially, to focus the attention of his own people away from their own domestic problems by calling attention to Vietnam. He may have enjoyed some short-range, personal political gains by so doing, but I think he hurt the credibility of his own country as a trustworthy neutral nation—and I know that your country is proud of its reputation as a trustworthy neutral nation. But it has lost that credibility. And I think Mr. Palme has damaged the reputation of your country severely.

FAXEN. What do you think it would take to make relations better?

BYRD. Certainly kicking Uncle Sam in the teeth, as Mr. Palme apparently likes to do, isn't going to do it. He's made the same error that a good many people have made—and that is to point the finger at the United States, to criticize the United States, while seeing no fault on the other side. I think Mr. Palme's comparison (of U.S. actions in Vietnam to World War II actions by Nazi Germany) was a vicious provocation, a libelous abuse, and I feel very strongly about it. I certainly wouldn't want Sweden to act as a moderator in any international dispute involving the United States, because I don't think it is a neutral country anymore. And I would assume that the majority of Americans share my views. These things (strained diplomatic relations) heal with time; but, so long as Mr. Palme feels as he does, things must remain as they are.

FAXEN. Thank you for sharing your views with us.

APPOINTMENT OF JOHN FOLTZ

Mr. TAFT. Mr. President, it is a real pleasure for me to call to the attention of my colleagues the recent selection of a fellow Ohioan to the position of Deputy Under Secretary for Legislative Affairs in the U.S. Department of Agriculture.

I am particularly pleased with the selection of John Foltz, because of his vast storehouse of agricultural and management knowledge gained through step-after-step advancement up the ladder of valuable experience since leaving the family farm in Bremen, Ohio. All of the Congress will benefit greatly from his appointment.

Mr. Foltz assumed positions of responsibility even before his matriculation from Ohio State University with a master's degree in agriculture. He was active in scouting, 4-H, and FFA, and was president of the Ohio Junior Fair Board. From that point on his climb has been steady and spectacular, taking time out only to serve in the U.S. Navy as an officer. His endeavors ranged from county 4–H assistant with the Extension Service in Perry County, Ohio, to teaching agriculture, public relations with the Future Farmers of America, and assistant to the Administrator of the Agricultural Stabilization and Conservation Service to USDA.

More recently Mr. Foltz served as USDA liaison officer with the House of Representatives before taking over as director of congressional relations for the Cost of Living Council in 1971, and his service as deputy director for agriculture with the Committee for the Reelection of the President.

The winner of many awards along the way, Mr. Foltz is also active in fraternal, church, and civic affairs.

I am confident, Mr. President, my colleagues will find that the service Mr. Foltz and his staff will offer this session of Congress will be unsurpassed. I congratulate him on his appointment and I commend him to you.

TO BETTER SERVE THE VOCATIONAL GOALS OF THE HANDICAPPED

Mr. HUMPHREY. Mr. President, I was pleased to join as an original sponsor of S. 7, the Rehabilitation Act of 1972, and I have strongly supported its passage by the Senate at the earliest possible time. The President's veto of almost identical legislation after the adjournment of the last Congress was unwarranted and cannot be permitted to stand.

I was shocked and saddened by the President's veto. I have called upon the President to explain why the physically handicapped, the mentally retarded, and the mentally ill are not worthy of the compassion and care of the people of this country. Of all the vetoes I have observed, this was the most cruel and the most unsubstantiated. I suggest to the President that he visit some of the countless rehabilitation facilities that I have been privileged to observe at first hand over the years. I suggest that before he again makes snap judgments on national priorities and on where Federal moneys should be saved, that he see the hope and promise that are in the eyes of thousands enrolled in these vital programs. And I suggest that he then ask himself what has gone wrong with the value system of this Government that denies people in need such crucial opportunities to obtain gainful employment and to know self-respect in being enabled to live independently.

I simply cannot comprehend the President's judgment that such legislation would jeopardize the goals of the vocational rehabilitation program and would be an example of fiscal irresponsibility. The exact reverse would be true with the enactment of the Rehabilitation Act of 1972. Revised authorization levels reflect a total reduction of over $350 million from levels in the original legislation vetoed by the President. Despite the requirement for higher initial funding

levels to meet startup costs for programs authorized during fiscal 1973–76 under the present legislation, there would be only a slight increase over fiscal 1972 authorizations under the Vocational Rehabilitation Act—$1.059 billion for fiscal 1973 under S. 7, as compared to $1.010 billion for fiscal 1972 under the present law.

The actual fiscal irresponsibility, however, is that this administration would object to a spending level that is only six-tenths of 1 percent of the budget it is proposing for fiscal 1974. Yet only about 1 million of the estimated 7 to 12 million persons who could be rehabilitated receive any services from the vocational rehabilitation program. Something is terribly wrong with our national priorities when those in need at home are deprived of resources to help themselves, because the Nixon administration objected to an original authorization level of some $1.5 billion for fiscal 1974—subsequently reduced by about $100 million in S. 7—while making a budget request for $2.1 billion in a contingency fund for military aid to South Vietnam.

But the other side of the coin is that vocational rehabilitation programs have an outstanding record of fiscal responsibility. As noted in the committee report on S. 7:

> The history of this program has shown that for every $1 spent on rehabilitation programs, the Federal Treasury gets back from $3 to $5 by decreasing the welfare rolls and adding to tax revenue through income earned by rehabilitated clients.

In fiscal 1972, State Vocational Rehabilitation Agencies rehabilitated 326,138 persons to productive and meaningful lives. And I am particularly impressed by the fact that more than 37,000 mentally retarded persons were rehabilitated in fiscal 1971, twice the number of retarded persons who were rehabilitated 4 years ago.

The fact remains, however, that much more can and must be done. It is for this reason that I strongly objected to the President's memorandum of disapproval of the original legislation last October.

That memorandum, stating that the measure would jeopardize the goals of the vocational rehabilitation program through adding nonvocational elements and narrow categorical programs and through instituting organizational changes that would confuse the direction of this program, completely ignored the serious limitations under current law that prevent effective services to people in need.

It is precisely the intent of the present legislation to reverse trends under policies of the administration that have diverted efforts to achieve the central goal of providing vocational services to handicapped individuals to encourage and enable them to obtain gainful employment. To counter a deemphasis in the Department of Health, Education, and Welfare upon vocational rehabilitation for handicapped individuals, reflected in a reduction of the work force in the Rehabilitation Services Administration to less than half its strength a few years ago, this bill gives statutory responsibility to the RSA Commissioner for all vocational rehabilitation services, research, and training in connection with services to handicapped individuals. Clear lines of authority are a prerequisite to more effective management. Specifying responsibility and designating funding for clearly defined purposes are essential to focus services on behalf of the handicapped and halt the diffusion of social services for other purposes, however valid and important these purposes are.

The fact of the matter is that the vocational rehabilitation program has not been reaching those who need services the most, the severely handicapped, nor has it been enabled to provide the full services that handicapped persons need if they are to be able to get and keep a job or to live independently. The time has come for a new definition of persons with mental or physical disabilities entitled to assistance toward leading productive and self-supporting lives. Continuing advances in knowledge and technology are overcoming barriers that previously disqualified countless handicapped persons as not deserving of service, because they were wrongly deemed to lack the potential to pursue a vocational goal or to be unable to take care of themselves and contribute to their communities. These advances must receive greater support. And all handicapped persons must be guaranteed their constitutional right to equal opportunity and equal protection under the law.

These perceptions of human potential and this fundamental commitment to human dignity were totally absent from the President's memorandum of disapproval of the legislation which the Senate has now again passed—this time with a decisive mandate in an 86 to 2 vote. I urge the House to act expeditiously on the Rehabilitation Act of 1972. And I urge the President to weigh most carefully the clear consensus of Congress that major new advances must now be undertaken in services to physically and mentally handicapped individuals in America.

Mr. President, I wish to conclude by again expressing my gratification at the inclusion of provisions in this legislation which incorporate or respond to original bills which I introduced in the last Congress. The requirement in this bill for an affirmative action program, under which Federal contractors shall undertake to employ and advance in employment qualified handicapped individuals, is an important step toward fulfilling the intent of my bill to prohibit discrimination in employment solely on the basis of such handicaps and in the absence of a bona fide occupational qualification.

Second, another section of this bill specifically prohibits discrimination against an otherwise qualified handicapped or severely handicapped individual, resulting in that person being excluded from participation in, or denied the benefits of, any program or activity receiving Federal assistance. The bill which I sponsored would have amended title VI of the Civil Rights Act of 1964 to establish this protection. I firmly believe the time has come to establish the right of physically and mentally handicapped persons to dignity and self-respect as equal and contributing members of society, and to end the virtual isolation of millions of handicapped children and adults from society.

Third, the Rehabilitation Act of 1972 incorporates my original amendment to establish vocational and comprehensive rehabilitation services for public safety officers disabled in the line of duty in dealing with a criminal act or working under a hazardous condition. Such assistance is of crucial importance if these public servants, handicapped in the course of protecting society, are to be helped by society to help themselves in pursuing new occupational careers and again having that vital sense of continuing usefulness.

Finally, I welcome the provisions in this bill calling for a comprehensive study of important problems confronting handicapped clients in sheltered work situations, to be conducted by the Secretary of Health, Education, and Welfare. This study, whose objectives are further defined in a resolution adopted by the Senate Committee on Labor and Public Welfare, responds in part to the serious concerns I raised about living and income problems of handicapped persons employed on a long-term basis in sheltered workshops or work activities centers. An amendment which I introduced in the last Congress would have provided for a demonstration program to test the feasibility of providing a wage supplement to these handicapped clients. I believe it is profoundly wrong that these persons should be institutionalized, and at public expense, when with a modest income they could be enabled to live independently and function normally in their families and communities. To this end, I urge that the sheltered workshop study called for in the Rehabilitation Act of 1972 be undertaken without delay.

Mr. President, already many rehabilitation facilities are being forced to release handicapped clients, because the Nixon administration is refusing to release moneys under supplemental appropriations enacted by Congress. It is essential that Congress enact the Rehabilitation Act of 1972 promptly, to place this administration on notice that the needs of handicapped persons are a vital national concern that must no longer be ignored. The Senate has given overwhelming approval to this legislation by a vote of 86 to 2. I am recorded as being in favor of this much-needed proposal. My absence during the final vote was due to official business in Minnesota where I addressed the annual Farm Forum. There were 3,000 Midwest farm operators, businessmen, and other concerned citizens in attendance. In the evening, I met with and discussed with members of the Minnesota State Senate, the Federal budget cut-backs, and the impact of such reductions on programs in the State of Minnesota.

GOVERNMENT SPENDING

Mr. BENNETT. Mr. President, Mr. Tom C. Korologos, my former administrative assistant and now deputy assistant to the President, recently addressed the Wasatch Front Regional Council's annual meeting in Salt Lake City on the subject of Government spending.

I believe his remarks are particularly appropriate and timely and I ask unanimous consent that his address be printed at this point in the RECORD.

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

A TOUGH LINE ON DOMESTIC SPENDING

I appreciate very much this opportunity to come "home" to Salt Lake and to meet and see so many old friends and relatives associated with the Wasatch Front Regional Council. I am told by Mr. Bott and the others here at the head table that most of this audience tonight is made up of State Legislators, County Commissioners, city mayors, councilmen, elected members of school boards on state and local levels, and other assorted elected officials.

I dare say there probably are more successful politicians in this room tonight than in any other comparable audience that I've seen—and that includes the U.S. Senate and the U.S. House of Representatives. I say that mainly because you folks here are infinitely closer to the people . . . to the heartland . . . to the salt of the earth that is represented by Tooele, Davis, Morgan, Weber and Salt Lake Counties.

And, in this fine audience composed of some of Utah's finest political successes, I'll bet you a month's interest on the national debt that not a single one of you elected officials have ever run on a platform of increasing taxes. Oh, once in a while a politician with courage comes right out and runs for office on a program of planned extravagance, but I didn't hear of any in the last election.

So, too, the President. As you know, he ran on a platform of no tax increases in the next four years and he aims to keep his pledge . . . I can assure you of that tonight.

If this nation's people were asked to name what they think is the most single, most frightening costly, frustratingly insensitive and fulsomely incompetent drag on national progress, I'd double my previous bet and say they would all answer: "Government".

The last symptomatic demonstration on this exploded in Washington when the President's budget went to Congress on January 29.

"Ruthless on social programs . . ." said the New York Times.

"Contemptuous of the needs of the American people," said Senator Harrison Williams of New Jersey.

"Intolerable social policy" said Arthur Okun, a former Council of Economic Advisor under President Johnson.

"A fiendishly clever appeal to the worst instincts of the American people," said another former Economic Advisor, Walter Heller.

I ask you, can a $268.7 billion budegt really be that bad?

Let's take a look at the President's budget and his objectives.

His first objective—was to hold down federal spending so that there will be no need for a tax increase.

Number 2—was to move the nation's economy toward the goal of a high employment prosperity without inflation and without war.

Number 3—to help bring about the change demanded by the great majority of the American people by ending the flow of power to Washington, by increasing the reliance on state and local governments to carry out what are primarily state and local responsibilities; and, by providing greater freedom for the American people to decide for themselves what is best for them.

And, Number 4—to assure the taxpayers that their money is used wisely and efficiently by the Government.

The President said on January 20 that "Government must learn to take less from people so people can do more for themselves."

The President was saying—leave the tax dollars at home. He was saying let the people decide how to spend what they earn. More than anything else this year, the President wants to get the government off your back and out of your pocket.

To do so, taxes must be leveled off . . . spending brought to heel. Much of the outcry about control of the purse strings comes from those who seek control to loose them, not tighten them up.

I've been in Washington 10 years and I can assure you that there is no such thing as a cheap politician back there.

More spending translates eventually into more taxes. It is that simple.

Higher federal tax rates are not needed now, nor in the years ahead, to assure adequate resources for a properly responsive government—IF the business of government is managed well. While new programs are often required to meet emerging problems, some existing programs prove to be inaffective or become obsolete or outmoded. Unless vigorous and determined efforts are made to restructure, reduce or terminate programs that no longer justify their cost, these programs continue and even grow.

Put yourself in the shoes of the President. A Congressman or a Senator represents his district or state and he writes and passes legislation, generally aimed at that particular district or state. After checking the headlines for his name, the Congressman or Senator then forgets about his bill or law.

The President must have the overview, the overall country in mind when his decisions are made. I'm sure every sewer grant, every public housing project, every impacted school application probably has some justification. But who looks at the overall picture, the national impact, who totals the cost, who has to enforce the law . . . one person, the President.

If the President had let spending go unchecked and accepted the kind of budget for 1973 that could have resulted from Congressionally approved actions, and if he had permitted this momentum to proceed on course the spending totals would have exceeded his actual proposals by billions. For instance, it would have been $11 billion more for 1973 . . . and $19 billion more for 1974 and upwards of $24 billion more for 1975.

These increases would have been on top of the year-to-year increases that the President did accept . . . $18 billion for 1973 . . . and $19 billion each for 1974 and 1975.

What does all that mean. It means that by holding the 1973 budget down to $250 billion, the President was able to save the taxpayers a 10 percent tax increase this year. And, that's not to mention savings from the cruelest tax of all—inflation; in addition to savings from higher interest rates.

And, what happened when the President sent his budget to Congress? War was immediately declared. You've seen the covers of the news magazines about the Constitutional crisis because the President is impounding appropriations. Congress is riding off in all directions, holding high the banner of its constitutional spending authority but at the same time, exerting much of its energy trying to preserve narrow, special interest subsidies.

The President's critics claim the budget places heavy emphasis on programs which aid the rich than for people who have the greatest human need. This is not the case. Federal outlays for human resources programs total 47 percent of the 1974 budget—up from 37 percent in 1970. By contrast, National defense spending makes up 30 percent of the 1974 budget total.

Consider the fact that Federal outlays for benefit to the poor in FY 74 will be $30 billion—$2 billion more than in FY 72.

Consider the fact that federal outlays for benefitting the elderly will amount to $63 billion in FY 74—an increase of 70 percent since 1970.

Consider the fact that federal outlays for all Federal health programs are also estimated at $30 billion for FY 74 . . . almost $6 billion more than in FY 72.

Consider the fact that federal outlays for food assistance are 240 percent higher in FY 74 than in 1969.

Consider the fact that education AND manpower totals in the FY 74 budget will be $10 billion, up from $7 billion in 1970.

Consider the fact that college student aid in 1969 was $186 million and in FY 74, the total will be $885 million—the President is giving the money to the students rather than to the professors.

And, what do we get in return: statements such as "A fiendishly clever appeal to the worst instincts of the American people . . ."

That there have been some cutbacks, some impoundments—and the President doesn't like to use the word impoundment—he prefers savings—that there have been some "savings", there is no question.

Let's examine a few of the larger ones that the President has proposed. What would they do? Why were they selected?

First, there is the housing freeze. The freeze on subsidized housing programs could not come at a better time in terms of the need for a penetrating reassessment of the social effects on these programs. New housing starts rose from 1.5 million in 1969 to 2.4 million in 1972. They are projected to remain high this year, with 270,000 of the new starts in 1973 accounted for by approved housing subsidies already in the pipeline. Many economists, in fact, are already asking the basic question: Who gets the subsidy? In a large measure, the subsidy is going to builders, bankers and developers. Outlays for subsidized housing will be $2 billion in 1974, even if we do not start another single subsidized unit. If these are supposed to be programs to aid the poor, then surely they need another look in terms of the efficiency of this spending. If they are programs to aid the housing sector, then in periods of economic strength certainly they can be held back to let the private economy carry the main load.

Let's take a look at hospital construction. There are two reasons the President wants to eliminate this $189 million activity.

For one, the hospital beds are not in general short supply. They were when the program was adopted, but conditions have changed. Another and related reason is that today, second-party financing, such as public and private health insurance, covers hospital construction costs. A special earmarked program is no longer needed.

Let's take a look at something very dear to the hearts of many of you in this room—Impacted Aid.

Since 1950, the Federal government has provided more than $7.2 billion for impacted aid.

The President's budget proposes continued funding in behalf of children whose parents both work and live on federal property (category A) and who make little or no contribution to support the schools their children attend. Funds for category A students would be made available through Education Revenue Sharing in 1974.

And, the budget calls for no funding in behalf of children whose parents live in the local community and pay full property, sales and other local taxes just like any other private citizen.

The budget cuts $120 million from impacted aid. That is $120 million from a budget of $6.5 billion for education. And, of that total $6.5, there will be $2.5 billion for education revenue sharing which is proposed legislation we will be sending to Congress later this year.

On a nationwide basis, the 100 poorest districts in America do not get as much impact

aid money as the single richest district. How fair is that?

Let's take a look at Rural Electrification Loans.

REA has provided 2 percent direct loans since the mid 1930s—when Treasury borrowing costs were less than 2 percent. These loans are financed directly by the Treasury. In 1950, 80 percent of all electric connections were for farms. By the end of 1971, 80 percent of the electric connections were for urban areas.

In response to that, the President decided that insured and guaranteed loans will be made to cooperative borrowers at 5 percent interest. Private company borrowers will pay interest at about market prices. What is the effect of this action: It will be to raise the average monthly electric bill by 50 cents in five years . . . $6 dollars a year.

The list could go on. EDA, OEO, Urban Renewal, Community Action Programs, Subsidized Training Grants—all programs passed with the best of intentions and the highest of hopes.

Unfortunately, there have been some failures and the President has decided to cut down on our losses, to assure the taxpayers that their money is being used wisely and efficiently by the government.

And, if I leave any message to you elected officials of the Five County Wasatch Front area, not to mention you Federal folks from Denver, it is to be cautious in budgeting any of the funds the President has "saved" or that he has not budgeted for next year. I would be very conservative in expecting to get much of this money.

I can assure you that should Congress win the overall impoundment battle, the President's warnings will come true: no control on spending, inflationary deficits and the certainty of a tax boost—not a Presidential tax boost and I've heard the President tell the Congressional Leaders this . . . but a Congressional tax boost.

And so, Congress is in something of a box.

What we need right now is a strong, self-confident Congress—neither totally acquiescent, not totally obstructionist nor vacillating emotionally between the two, but willing and able to take on, and provide its own answer to the tough important questions the President's budget poses.

We certainly do not know everything at the White House. Congress has the tools to cut spending . . . to reorder priorities . . . to change the economy from a wartime to a peacetime economy. In order to do this, it is going to need your help. County and local elected officials have to provide the most efficient, the best and least government possible.

In your decisions on applying for this grant, for that library project, for the other more than 1,000 different federal programs from the 940 page catalogue of Federal Domestic Assistance, remember one thing; Federal money is not free money.

Somehow there is the belief that the U.S. Treasury is sitting back there filled to the gills with free money and if we do not get it in Weber County then somebody in Salt Lake County is going to . . . so let's sit down and figure out some way to spend it, because we qualify for it.

This is bad public policy in my opinion and this country has been operating on that basis for too long a period of time. Ladies and gentlemen of the Wasatch Front Regional Council, we simply cannot afford that kind of luxury any more.

We cannot afford the luxury of those programs with little or no correlation at all between money spent and results achieved. We cannot afford multi-million dollar urban renewal projects which have left thousands homeless. Some public works projects have to be slowed. We cannot afford ever-rising payments under the existing welfare system which have encouraged second and third generations to stay on the dole.

And, incidentally, on the question of welfare reform, I think that the Administration is going to make a very vigorous effort to develop welfare reform legislation in the first six months of this year.

I can't warrant to you that the work will be done. We all learned a great deal about welfare over a period of the last year. We want to profit by that education. We want to come up with legislation that is both workable and passable in the Congressional sense.

So the work has begun. It will continue very vigorously as soon as Secretary Weinberger is in place in HEW. He will be chairing the Human Resources Policy Group as Counsellor to the President and within that group we expect to see the development of a good new proposal.

What it will contain I am just not in a position to predict at this point.

I'm an optimist. I think the Congress and the Executive Branch working together, will provide the common sense required to get the job done in welfare and in spending.

It's like the story I've heard Senator Bennett tell a number of times about Brigham Young—when he was asked why he and the Pioneers left Nauvoo for the West. "We went willingly . . . because we had to," said Brigham Young.

The common sense which is applied to a family budget is equally applicable to a budget for a nation of 210 million: you cannot get away for very long with spending money you don't have. Somebody has to pay eventually, and it is the taxpayer who foots the bill for the nation's budget. That is why every American has such a vital stake in the shape and size and direction and philosophy of the budget.

Another way of saying it is that when Uncle Sam plays Santa Clause, the taxpayer ends up holding the bag.

Back in August 1969, President Nixon addressed the Nation on the urgent need to modernize our institutions to meet the urban and social crises of our time, and most importantly, the crisis of confidence in the capacity of Government to do its job.

He spoke then of the legacy of a third of a century centralized power and responsibility in Washington which has produced an unresponsive, cumbersome and ineffective bureaucracy; of a third of a century of unprecedented growth and change which has strained our institutions and raised serious questions about whether they are still adequate to meet the challenges we face; and of a third of a century of social experimentation which left us a proliferation of entrenched programs which have either outlived their usefulness or outgrown their purposes.

What was needed, he said, was a fundamental reversal of the trend toward growing centralization of power flowing from the people and the States to Washington, to a New Federalism in which power, funds and responsibility will flow from Washington to the States and the people.

Over the past three and one-half years, the Administration has been moving firmly towards this goal of the New Federalism. I am often asked how will we get there? Are we moving philosophically left, center, or right?

The answer is, we are moving forward.

Slowly, but surely, through revenue sharing, through streamlining the Federal Government's functions, through decentralization of some Federal programs and better coordination of others on a regional basis we will meet the needs of State and local government that will have profound implications as we enter our third century as a Nation.

The key to the success of the New Federalism, we profoundly believe, lies in the decentralization of responsibility—in placing responsibility at the State and local level which is most responsive to the people—and who knows that better than you people in this hall tonight.

Government, I believe, can only become more responsive when it becomes more responsible.

Participatory democracy can only work when the people feel they are participating in every sense of the word, in the decisions which shape their lives.

Power can only be effective when the gap between promise and performance is closed by multiplying the opportunities for involvement and influence by individual citizens.

In his first inaugural address, Thomas Jefferson put it this way: "The will of the people," he said, "is the only legitimate foundation of any government, and to protect its free expression would be our first object."

Like Jefferson, President Nixon's first concern is to ensure that the will of the people is heard. And, I can assure you that over the next four years, he will do all in his power to work towards that goal.

THE HIGHWAY TRUST FUND

Mr. HARTKE. Mr. President, within the past year a significant controversy has arisen surrounding the uses to which the funds in the highway trust fund should be put. Some have advocated that a substantial portion of those funds should be diverted to mass transportation needs.

To be sure, the needs of commuters and urban dwellers are great. There is a transportation crisis in our cities and it is being made worse each day by the choking volume of cars on city streets and on highways.

I have long advocated improved rail transit, and was at the forefront of the battle which resulted in the creation of Amtrak. Just this week, the Subcommittee on Surface Transportation, of which I am chairman, has been holding hearings on the Northeastern rail crisis. Also this past week, I have introduced a bill designed to assure the continuation and improvement of vital rail services for both freight and commuters.

We need improved mass transit, but the means to achieve that goal is through the straightforward use of general revenues or the imposition of a new tax—not at the expense of new highways which are badly needed in many parts of the country, including my own State of Indiana.

Mr. President, I ask unanimous consent that a statement prepared by Indiana Highways for Survival, Inc., be printed in the RECORD.

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

INDIANA HIGHWAYS FOR SURVIVAL, INC.,
Indianapolis, Ind., February 16, 1973.

DIVERTING YOUR HIGHWAY TAXES . . . REVENUE SHARING IN REVERSE?

That most docile and uncomplaining of all taxpayers—the highway user—is about to be "had" again.

Why? Because he persists in making a public anachronism of himself. He pays his own way.

Every time he buys a tank of gasoline the motorist pays between 6 and 10 cents in state and 4 cents in federal fuel taxes per gallon. That adds up to a lot of money. But

it takes a lot of money to maintain and improve 3,760,000 miles of public roads and streets. And this is why these taxes were imposed.

At least that's what we were told. We were paying in advance for better, safer highways. Unfortunately, the federal government hasn't kept its end of the bargain. Over the past several years, billions of our federal highway taxes have been withheld or impounded.

As a consequence, the Federal Highway Trust Fund now has a cash balance of about $5 billion. Although frequently referred to as such, this is not a "surplus." In fact, the fund's contract obligations with Indiana and the other states for highway improvement work now in progress totals more than $7 billion.

These obligations do not have to be paid immediately, however. And, in the meantime, your road tax dollars continue to roll into Washington. Therein lies the problem.

Whether he likes it or not—and the government isn't about to ask his opinion—the motorist is on the brink of becoming the financial godfather for all of the nation's mass transit systems.

Nobody even pretends to know exactly how much money this will require. You can get a rough idea when you consider that *one* rail rapid transit system in *one* city is costing upwards of $5 billion. That's more money than Washington released to all of the states last year for work on 902,630 miles of federal-aid highways.

Just for starters, the Nixon Administration is proposing that nearly $3.7 billion in Highway Trust Fund revenue be made optionally available in the next three years for mass transit. This is in addition to $1 billion also budgeted for this purpose annually under the Urban Mass Transportation Assistance Program.

And there are a few members of Congress who don't believe this is enough. Sen. Edmund Muskie of Maine wants to provide the Secretary of Transportation with another $550 million in highway-user taxes annually to use "at his discretion" for selected mass transit. To give you a clue as to where this money would go, three-fourths of all of last year's UMTA grants ended up in just five states—New York, Massachusetts, Pennsylvania, California and Illinois.

Not willing to stop there, Senator Muskie would earmark another $350 million a year in Trust Fund receipts to assist states in establishing emission inspection programs for all motor vehicles.

Not to be outmaneuvered in this game of deciding how your highway taxes should be spent, Sens. Edward M. Kennedy of Massachusetts and Lowell P. Weicker Jr. of Connecticut want to shift nearly half of the Trust Fund's annual total revenue—$2.75 billion—to mass transit assistance.

What they are all saying is that now is the time for the government to assume responsibility for massive, long-range federal involvement in revitalizing and subsidizing the nation's badly deteriorated urban public transportation systems.

Well and good. As travelers and commuters in most of our larger cities know, the needs are immediate and critical.

But what they are not proposing is a feasible and honest tax program to support this multi-billion dollar commitment. Diverting a billion or two dollars a year from the Highway Trust Fund *is not* the answer. On the contrary, this can only compound our total transportation problems.

No one in Washington has had the courage to come right out and tell America's 130 million motorists that all of their federal highway tax dollars, and more, are not needed to sustain an adequate road and street program. The reason is that they know this isn't true.

The National Transportation Needs Report, submitted to the Congress last year by the Federal Department of Transportation, makes it statistically and factually clear that current Highway Trust Fund revenue isn't sufficient to meet present or future highway requirements, much less provide additional billions of dollars for mass transit.

The report also underscores the fact that, in most instances, the best and most economical solution to traffic problems in our cities will continue to be highway-oriented—new buses and related bus transit services augmented with exclusive bus lanes, wider and better streets and thruways and controlled vehicle travel and parking patterns to fit the diverse transportation needs of entire metropolitan areas.

Fixed rail rapid transit lines are expensive and inflexible, and can be justified only in a relatively few densely compacted urban traffic corridors. Here, they can supplement road and street systems and relieve critical traffic pressures. They are not a cure-all substitute.

Even when fully operational, San Francisco's computerized, 75-mile Bay Area Rapid Transit System is expected to handle less than 5 percent of that area's total people traffic.

What can't be legislated away overnight is the fact that highway travel in the United States increased nearly 25 percent in the past four years, and will almost inevitably increase that much or more in the next four years.

Interstate bus systems carried 100 million more passengers last year than in 1971. Truck sales in the U.S. jumped almost 24 percent in 1972, and intercity freight movement on highways will double by 1990. New car sales in January of this year soared to a record 880,000 units, up 18 percent from last year's early and fast pace.

These are the facts of life that state highway and local road and street officials must contend with today . . . and tomorrow. Neither an act of Congress nor an Executive Decree from the White House will abrogate these responsibilities, nor can they appreciably lessen the nation's continuing economic dependence on a safe and efficient highway transportation system.

This is why it is wrong, morally and realistically, to deceive the American public with the pretense that the Highway Trust Fund can do the job it was created for and, merely with a bit of juggling, also furnish the huge injection of money needed to rejuvenate hundreds of deficit-riddled, dollar-short public transportation systems.

During the past six years, while federal-aid highway allocations were frequently being withheld, but not diverted on the massive scale now proposed, Indiana and nearly half of the other states had to increase their own fuel taxes to pick up the slack and maintain nominal highway construction and improvement programs.

By this kind of Highway Trust Fund manipulation, the government is perpetrating a "no tax increase" fraud. There will be tax increases as a consequence, but it will be the states that will have to make them.

This is revenue sharing in reverse. It is a case of calculated buck-passing with the governors, their state legislatures, and, eventually, the motorist being stuck with the whole tax bag.

It's just possible that this will be the final straw, and that "that most docile and uncomplaining of all taxpayers" has had all that he's going to take of this kind of treatment from Washington.

SPEECH BY OSCAR BREDTHAUER OF GRAND ISLAND, NEBR., AT THE 28TH ANNUAL CONVENTION OF THE NATIONAL LIVESTOCK FEEDERS ASSOCIATION

Mr. CURTIS. Mr. President, I have recently received a copy of a speech delivered by Mr. Oscar Bredthauer of Grand Island, Nebr., at the 28th annual convention of the National Livestock Feeders Association on February 7, 1973.

Mr. Bredthauer is president of the NLFA, a voluntary, nonprofit and nonpolitical trade association of persons engaged in feeding and finishing livestock for the slaughter market.

Mr. President, in view of the present concern of American housewives with the cost of meat and other food products, I believe Mr. Bredthauer's statement does much to point out the common ground which consumers and livestock producers share.

I ask unanimous consent that President Bredthauer's address be printed at this point in the RECORD and sincerely commend it to the attention of all my colleagues.

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

TOGETHER WE STAND

On the occasion of our 28th Annual convention I extend my very best wishes to you and add a special welcome to the 1973 annual gathering of the National Livestock Feeders Association. We're pleased that attendance at this convention includes not only members of the association, but a great many guests and interested persons representing related businesses which provide goods and services, as well as representatives of other agricultural organizations and government officials.

Today, I would like to visit with you briefly about what I feel is the greatest challenge over the next few years to those engaged in the livestock and meat business. We have many problems with which we are confronted and—in that respect—I doubt if we differ from any other business or profession.

However, we are often asked on programs and in interviews, "What is the single most important problem facing the industry?" The proper answer to that question, I believe, is the need to inform the consumers of the Nation about finished meat products and about our business.

In other words, somehow or other, we need to get our story across to those people who buy the red meat production in the United States, many of whom know very little about the business or even about the products they want.

In reality, we are in this complicated situation together and together we will stand. As producers of finished meat animals and as processors and distributors of the products from these animals, we need customers; and likewise, for highly nutritious food that is the backbone of any great nation, consumers need producers who will provide that food.

This all sounds very simple and elementary, except that in the process the matter of economics, prices, price fluctations, costs and profits become exceedingly important considerations.

Some have been known to say that informing the public is easy. All you need to do is write the story in a very interesting and simple manner, give it wide distribution, get it printed, and that is all that is necessary. I submit to you that such is not the case.

In order to tell the livestock and meat story effectively, we must do it in such a way that it is clealy understood, and also in a way that is meaningful to those we are trying to inform. That isn't easy.

For instance, we aren't very effective when we tell a family on limited income with four growing children that on the average, consumers spend only 15.6% of their disposable income for food, and this percentage has been

declining for years. Being on limited income and having six mouths to feed, that family is probably spending more than 15.6% of its disposable income for food and perhaps always has. Furthermore, now that the four children are growing up, it takes quite a little more food than it did five or six years ago, and may take considerably more in proportion to the increased earnings of that family.

At the same time we are trying to inform consumers, we must also keep in mind the necessity of providing meaningful material to those who write and prepare that material for the news media in our urban centers and for national distribution. Many of them don't understand either. Also, they are prone to lean toward the sensational and omit some of the crucial facts in the case.

How often have we seen in bold headlines an announcement that fed cattle prices set a new record in the market today, or that hog prices have reached the highest level in history and that pork at retail is bound to go up? While these headlines may be true, the writers and broadcasters omit the fact that wage rates and personal incomes have also reached new records and are higher today than they were yesterday, last week, or last year. Why should one development be newsworthy and not the other.

Some might say let's disregard the general news media. After all, the space in publications and the time over networks is available and can be purchased. Undeniably, though, there is the large matter of money for such purchases, and, at this moment, at least, I am convinced the industry would not appropriate the millions of dollars that would be required to inform consumers in that manner. For the time being, we will probably be more effective using the other avenues.

There may be another side benefit in meeting this challenge that I throw out to you. It is the probability that in developing the right kind of an informational program, we may learn some things ourselves. School teachers tell me that in the preparation of material for lectures and classrooms, they often learn more about a subject than they knew before, and more than the students learn from them. It is not outside the realm of possibility that we will discover some aspects of our dilemma that seemed unimportant to us before.

A meaningful and understandable informational program can extend beyond the problem of consumer concern about meat prices. It can very well spill over to those who are emotionally and actively involved in unrealistic pressures to clean up our water and clean up our air. Also, it can reach those who would impose unreasonable standards for the safety of employees who may be working on any job. At least there is a chance these people may be tempered somewhat if they fully understand what is involved in the production of meat animals and the meat derived therefrom.

To avoid the risk of being unjustly criticized, I want to make it plain that we are fully in favor of doing everything possible to help clean up the water, improve the air, and provide safe conditions for our workers. There are, however, certain economic limitations to such programs, and unless and until the general public exhibits a willingness to assume the added costs of all these programs, the industry will be able to go only so far. In our business, at least, the profit picture is normally quite limited and we can absorb only a small portion of the extra cost of such programs.

The question always comes up as to why we need worry about informing consumers and trying to explain the fact that livestock and meat prices may be higher today than they were at some time in the recent past. After all, despite a certain amount of grumbling, some headlines, and continual concern about the cost of living, the public is still buying all of the meat offered to them and are paying the prices that are charged. Part of the answer is: a lot of grumbling might prevail on our government to take some control action that it doesn't want to and would be very unwise. Another part of the answer is that we may not always enjoy, unless we do something about it, the continued demand for red meat that we have today, particularly under conditions of much higher production and the further introduction of substitute products. In other words, our job is necessary not only because of what is going on now, but also because of what we may face in the future.

As I call this challenge to your attention, I expect some of you, at least, will want me to tell you how we are going to meet it. I am not sure I can do that, but perhaps I can provide some insight and let you know what I think may be necessary.

Less than a month ago, I listened to a very interesting program at one of our state conventions that should give us a little clue as to what we need to do. This program involved a panel of eight ladies from a metropolitan area in Michigan. They could have been from any city of reasonable size. The ladies were articulate; they were generally intelligent; all were married and keeping a household; some of them had children while others did not. All were buying most of their groceries and some were working outside the home.

While they were talking to an audience of livestock feeders and their wives, the ladies did not know who their audience was, except the people were connected in some way with the food business. They knew nothing about the moderator other than his name.

The ladies on the panel were not prompted in any way, but were told they could and should answer questions in a frank and honest manner. The people in the audience, in turn, were instructed on the ground rules prior to the appearance of the panel. They were not to reveal who they were and, furthermore, they were not to get the least bit angry at anything that might be said.

It was a most interesting two hours; yet it was also somewhat disturbing. It was disturbing because it demonstrated how little this group of intelligent homemakers really knew about the food business and particularly how little most of them knew about meat.

For instance, most of them knew little or nothing about the various grades of beef and some admitted they paid no attention to the grade. All but one felt that prices of meat at retail were high and some said very high. Yet, when asked what consumer product, including food, might be a good buy in todays market, they could not name one. The conclusion was that everything was high, not just meat. One lady on the panel—one out of eight—defended the price of meat and other consumable goods saying she didn't think they were high at all compared to incomes and wages. After all she said, we are all better off today with much higher salaries and incomes, even though the prices of most consumable goods have gone up.

A college student's wife, whose family income was probably the lowest of any on the panel, had heard about DES and she expressed great concern. As far as she knew, she said, there was a small amount of DES residue in all beef and for that reason, she was quite concerned about eating it. Another member of the panel—the wife of a college professor—thought that the retailers profit on groceries was probably around 50%. She too expressed considerable concern about possible residues of chemicals and feed additives in meat; yet she smoked several cigarettes during the course of the program.

I could go on and on in this way, but it would take too long. Let me tell you instead just a few of the things we need to consider. First of all, I think that consumers in general couldn't care less today about whether or not our business is profitable. They might have some concern if they knew about it, including many of the variables with which we have to contend. Their major concern is that when they get to the grocery store, including the meat counter, and find some prices have gone up, the money they have left for food will not go as far as they want it to. Most are not interested in the reasons or have not thought about it.

Perhaps they can understnad, though, that increases in livestock prices and in meat prices may be more abrupt than upward trends of other prices because just prior to such an upswing, there had been a decline. You know as well as I do that the record is clear on this point. Consequently, any short term trend in livestock and meat prices is in no way representative.

I think Mrs. Consumer can also understand that a little review of her own personal family income in the past five to ten years will be somewhat of a revelation. She'll find that the price of livestock and meat have not gone up nearly as much as her own family income, nor nearly as much as the cost of clothing she buys for her children, nor nearly as much as medical and dental costs, nor nearly as much as most anything else she buys.

She can also understand that some 40% of the price of meat at retail represents costs in the processing, distributing and merchandising of meat occurring after the animal leaves a feedlot. These costs do not go up and down but have continued an upward trend for at least the past twenty years. The increased salary or wages of her husband may have directly or indirectly contributed to these higher costs.

I think she can understand, if properly told, that a 1,000 pound Choice steer yields about a 615 pound carcass from which the retailer is able to sell about 430 pounds of beef to the consumer. Of this 430 pounds of salable beef, only about 29% of it is in the form of steaks. As our society has become more affluent, more and more people want some part of this 29% of the beef carcass, and it is only reasonable that these items are priced higher, and sometimes considerably higher, than other cuts of beef. She must understand, too, that the price of steak at retail is not the price of beef.

If she does want some of this more popular segment of the beef carcass, and it gets to be a battle between the mortgage payment and the butcher; Mrs. Homemaker must decide which she wants the most. If she wants the new home with all new furniture, and a station wagon in the drive, plus a second color television set for the kids, and wishes she had a swimming pool in the backyard, she just may not be able to buy rib eye steaks whenever she wants to. After all, that 8.6% increase in her family's personal income in 1972, and the 6.8% increase in personal income during 1971, will only go so far. She simply cannot expect the livestock feeding industry, or the meat processing industry, or the retail industry, to sell her steak at a lower price so she can enjoy it and still make the extra payments on the mortgages or the purchase contracts she has.

I think she can also understand, if it is explained to her, that if some extra outside finish is trimmed off of a roast, or she buys a boneless rib roast instead of a standing rib, she is going to have to pay extra for it. She will get the same amount of red meat she would have gotten in the first place, but not for the same number of dollars because she had to pay somebody to do that trimming and boning for her. At least in some shops this little extra service comes at the rate of $6.00 an hour or 10¢ a minute. In many cases, our homemaker may have been paying her own husband this ten cents a minute or her neighbor's husband.

She might ponder a bit about another special service that costs money. Some food

stores are now staying open on Sunday to accomodate shoppers. To keep just one meat cutter on hand to attend a self-service meat counter costs one local chain $100 per store for a short day on Sunday. The consumer pays this bill, too.

Perhaps, also, our consumers can appreciate a few comparisons of just how much various prices have risen in relation to other prices. Late last year, the average price of a pound of Choice beef at retail was $1.12. The highest price ever reached in August, 1972, when the average pound of Choice beef reached $1.17 per pound. in 1950, Choice beef at retail was worth 75.4 cents per pound. Had a pound of Choice beef at retail gone up as much as a first class postage stamp since 1950, it would be selling at $2.01 per pound. Had a pound of beef gone up as much as the cost of medical care, it would be selling at $1.88 per pound. Had a pound of beef gone up as much as average hourly wage rates or per capita disposable income since 1950, it would be selling at $2.11 per pound. Or compared to the cost of having a baby since 1950, a pound of Choice beef would be worth $3.11.

In 1950, Choice steers at Omaha were bringing $28.88 per hundred weight. If Choice steers had gone up as much since 1950 as a first class postage stamp, they would now be worth $77.02 per hundred weight. Compared to the rise in total medical care, they would be bringing $72.34 per hundred; or compared to the rise in average hourly wage rates, $80.69 per hundred, and to the rise in per capita disposable income, $80.89 per hundred. If Choice steers since 1950 had gone up as much as the cost of having a baby, they would not be commanding $119.13 per hundred, and a rise equal to the daily cost of hospital service would put Choice steers up to $176.69 per hundred.

As everyone knows, Choice steers were selling in the range of $42.00 per hundred weight. Our consumer friends might also like to know that according to latest information, live cattle prices in the Common Market countries of Europe at the beginning of 1973 averaged $56.00 per hundred weight for older cattle and cows culled from dairy herds. They ranged from about $46.50 in Holland to $62.00 in Italy.

These are a few of the things I think we may be able to impress upon the consumers of the nation if we work at it hard enough. Undoubtedly, there are some other explanations we can use and information we can impart that will make some impact.

I think we also need to be honest about the future cost of food and red meat. They are not going to decline appreciably as long as wages and salaries continue their upward trend, or as long as distribution and transportation costs continue to increase, or as long as the cost of machinery and equipment continues to rise and taxes keep on going up. There may be some savings possible through improved efficiency here and there, such as central cutting and fabrication of meat, but these are not going to permit a substantial decline in the end cost of the product.

We can also assure consumers there will be further increases in the domestic production of red meats provided there are neither widespread consumer reactions nor policy decisions on the part of our government that become discouraging to the livestock feeders and ranchers. Present price levels will encourage that increased production.

Over a period of about twenty years the beef producers in the United States actually doubled per capita production for the consumers of this nation. It rose from 55 pounds per capita to 110 pounds per capita despite the fact that prices did often fluctuate down and up and we experienced some periods of almost economic disaster. During these twenty years, production was out-running demand.

In about the last six years, however, production of beef has not increased so much, with the result that demand for it by consumers has generally caught up with the supply. Due to changes in the availability of cattle for feeding purposes nearly all of the increased production of beef will have to come from more calves. This takes time, but further production will be showing up before long.

As stated in a report from the National Livestock and Meat Board, it still takes two years to grow the steak or roast you have for dinner, plus 2,500 lbs. of grain, 450 lbs. of protein supplement and 12,300 lbs. of hay, silage and pasture, plus tremendous investments in labor and capital before a steer is feedlot-finished and ready for market at 1,000 lbs. I might add that we can also anticipate increases in pork production by about mid-1973 since farrowing intentions clearly indicate such an increase.

I hope this discussion proves valuable to all of you. I am sure you have heard some of it before, but perhaps it has not been put in quite the same perspective. We have a story to tell and a position to defend. In so doing, we need make no apologies to anyone.

I hope all of you will express yourselves with enthusiasm on this subject whenever the occasion arises. I can assure that your association will engage in a stepped-up program in an effort to bring the facts to the attention of all the consumers.

If we can meet this challenge and bring the facts to consumers, we will go a long way towards solving some of the other problems the industry faces and create a more favorable atmosphere for operation in the future.

My very best wishes to you for continued happiness and progress in your business. Again, I thank you and compliment you for your attendance at this 28th annual convention of our association.

THE JAMES FORD BELL LIBRARY CONFERENCE ON THE AMERICAN REVOLUTION, AT THE UNIVERSITY OF MINNESOTA

Mr. HUMPHREY. Mr. President, our Nation is approaching its 200th anniversary.

The James Ford Bell Library of the University of Minnesota at Minneapolis is sponsoring a conference May 2, 3, and 4, 1973, on the political and philosohphical origins of our country. It will be an important opportunity for students to discuss with distinguished scholars the politics of the early American years.

I find that I always benefit from a fresh look at the principles and ideals of the Founding Fathers. Their wisdom can still be applied to today's problems. This Nation's success and strength can be traced to the sound beginning they provided.

This beginning will be analyzed by some of the country's foremost scholars at the James Ford Bell Library Conference.

Mr. President, I ask unanimous consent that a letter I have received from Dr. John Parker, curator of the library, and the schedule of the conference be printed in the RECORD.

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

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., February 9, 1973.

Senator HUBERT H. HUMPHREY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: We wish to call your attention to a major event looking toward the bicentennial of American Independence. It is our belief that one of the best ways to observe the bicentennial is in serious discussion of the political and philosophical origins of our national beginnings. To this end we have invited some of the foremost experts on the American Revolution period to come to the University of Minnesota and share with students and others of this region their insights on this historic event.

Our hope is that their remarks and the discussion which follows will be published, thereby enabling us to share this conference more widely.

Our hope is that their remarks and the discussion which follows will be published, thereby enabling us to share this conference more widely.

Any publicity you could give this conference in Washington would be greatly appreciated.

Sincerely yours,

JOHN PARKER, *Curator.*

PROGRAM—THE JAMES FORD BELL LIBRARY CONFERENCE ON THE AMERICAN REVOLUTION, MAY 2, 3, 4, 1973

SPEAKERS

May 2, 7:30 p.m.

Dr. Louis B. Wright: "Motivations and aspirations for colonial settlement in North America." Former Director of Folger Shakespeare Library, Washington, D.C.; Currently Historical Consultant to the National Geographic Society.

Author: *The dream of prosperity in colonial America* (1965). *The Atlantic frontier: Colonial American civilization,* 1607–1763 (1959).

Professor Caroline Robbins: "The transmission of ideas: problems in understanding the development of a revolutionary mood in the Colonies." Chairman, Papers of William Penn Project (Historical Society of Pennsylvania).

Author: *The eighteenth century commonwealthman* (1968). *Two English republican tracts* (1969).

Professor Jack P. Greene: "The development of American politics." The Johns Hopkins University, Department of History.

Author: *The quest for power: The lower houses of Assembly in the southern rural colonies, 1689–1776* (1963).

The reappraisal of the American Revolution in recent historical literature (1967).

May 3, 2:00 p.m.

Professor Michael Kammen: "A different 'Fable of the Bees': The problem of public and private sectors in colonial America." Cornell University, Department of History.

Author: *People of paradox: An inquiry concerning the origins of American civilization* (1972). *Empire and interest: The American colonies and the politics of mercantilism* (1970).

Professor Elisha P. Douglass: "Frontier interests and independence." University of North Carolina, Department of History.

Author: *Rebels and democrats: The struggle for equal political rights and majority rule during the American Revolution* (1955). *The coming of age of American business: Three centuries of enterprise, 1600-1900* (1971).

May 3, 7:30 p.m.

Professor Pauline Maier: "Attitudes toward change in the American Revolution." University of Massachusetts, Boston, Department of History.

Author: *From resistance to revolution, colonial radicals and the development of American opposition to Britain, 1765-1776* (1972).

Professor John Howe: "Attitudes toward violence in the pre-Revolutionary period." University of Minnesota, Department of History.

Author: *The changing political thought*

of John Adams (1966). *From the Revolution through Jackson* (1973).

Professor John Shy: "Mobilization of opinion and armed force." University of Michigan, Department of History.

Author: *Toward Lexington: the role of the British army in the coming of the American Revolution* (1965).

May 4, 7:30 p.m.

Professor Wallace Brown: "The case of the Loyalists and other non-participants." University of New Brunswick, Department of History.

Author: *The King's friends: the composition and motives of the American Loyalist claimants* (1965). *The good Americans: The Loyalists in the American Revolution* (1969).

Professor John P. Roche: "The quest for a new government." Brandeis University, Department of Politics.

Author: *Shadow and substance: Essays on the theory and structure of politics* (1964). *The major opinions and other writings of John Marshall* (1967).

Dr. Staughton Lynd: "The American Revolution as precedent." Institute for Policy Studies, Washington.

Author: *Class conflict, slavery, and the United States Constitution* (1968). *Intellectual origins of American radicalism* (1968).

WEST FRONT OF THE CAPITOL

Mr. KENNEDY. Mr. President, I strongly oppose the recommendation, announced today by the Commission on the Capitol, that $58 million in funds should be made available in the next fiscal year to extend the west front of the Capitol.

There could hardly be a more inopportune or embarrassing time for this extravagant and unjustifiable recommendation to be made. The historical, esthetic, economic, and administrative arguments against the extension of the west front are well-known. Time and again, in critical debates and votes on the Senate floor in recent years, these arguments against extension have prevailed and the Capitol has been saved, as the timeless tribute it is to the plans of Washington and Jefferson, and to the work of America's greatest architects of the past.

We know the state of present crisis over the Federal budget. We know that the funding of vital social programs is being pared to the bone to accommodate the President's austerity budget for domestic programs. How, then, can we in Congress indulge ourselves by spending tens of millions of dollars on new office space and personal convenience in the Capitol, when these urgently needed Federal funds could be better spent on far more worthy purposes?

Above all, we know that citizens throughout the country are beginning to look forward now to the 200th anniversary of our independence and the founding of our country. How, then, can we choose this time to tamper with the historic beauty and integrity of our Capitol, the most important symbol of our Nation?

I hope, therefore, that the Appropriations Committees of the House and the Senate will resist this needless and unwise new assault on the Capitol, and that once again, this unique landmark of our Nation, this bridge across our history, will be preserved.

NATIONAL VOTER REGISTRATION

Mr. McGEE. Mr. President, less than a year ago the Senate tabled the proposed National Voter Registration Act which aimed at easing the path to participation in our democratic processes for many Americans. Believing that this is an overdue movement, I have, with the cooperation of a number of other Senators, persevered. In 2 weeks, the Committee on Post Office and Civil Service, which already has held 2 days of hearings on voter registration, will resume its hearings on S. 352 and similar proposals.

Many close observers of the political scene are convinced that registration procedures now in use in many of our States constitute one of the major barriers to wider voter participation in this country. If we really intend to practice true participatory democracy in this country, we must cut through these archaic requirements which stand as a bar between the responsible citizen and the polling place. Last year, in the Presidential election, only about 55 percent of the eligible voters in America cast their ballots. That, I believe, is a deplorable fact; a situation we must act to rectify.

As the New York Times stated editorially before the Senate acted to table the question in the 92d Congress:

Nothing is more frustrating for a citizen than to discover he cannot vote because he has not lived in his State or community long enough or because he forgot to register weeks or months before Election Day.

The Judiciary has taken a long step toward minimizing the impact crude residency requirements. But it remains for Congress to act if the frustrated voters, many of whom found themselves out in the cold on November 7, 1972, are to have the barriers of equally crude registration laws lowered. I ask unanimous consent that the New York Times editorial of March 10, 1972, be printed in the RECORD.

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

THE FRUSTRATED VOTER

Nothing is more frustrating for a citizen than to discover he cannot vote because he has not lived in his state or community long enough or because he forgot to register weeks or months before Election Day. Nothing could be more ironic since democracy thrives on popular participation.

The Senate is now considering a bill sponsored by Senator McGee of Wyoming, which would do much to smooth the way to the polling place. The bill would permit a citizen to vote in Federal elections, if he had been resident in a state for thirty days. Twenty-four states now require that a potential voter reside in that state for at least one year, an old-fashioned residence requirement that no longer makes sense if it ever did.

The bill would also permit potential voters to register until thirty days before an election. Most states have approximately the same registration deadline, but this provision would do away with the anomalous requirements which now prevail in a few areas.

It is also desirable to make it easier for citizens to register. Except in progressive communities which have mobile registration centers, getting one's name on the voting roll often involves a trip to an inconveniently located office on a workday. The McGee bill eliminates this obstacle. It would set up a National Voter Registration Administration within the Census Bureau to register potential voters by mail.

There is no constitutional barrier to this reform inasmuch as local governments would still control the actual registration process—the Federal form would be mailed back to the local voting registrar—and the states could still set voter qualifications for their own elections.

The McGee bill is now before the Senate, but it has encountered stiff Republican opposition. Yet this reform ought not be a partisan issue. The frustrated voter is as likely to be a suburban Republican businessman recently transferred from another state as he is to be an inner city Democrat. A simplified registration procedure is long overdue.

A RESOLUTION ADOPTED BY THE COUNCIL OF HONOLULU

Mr. INOUYE. Mr. President, yesterday, I introduced into the RECORD a resolution passed by the Council of the City and County of Honolulu calling on the President and the Congress to restore budget moneys for essential social service programs. In the past few weeks I have received similar statements of concern over priorities for Federal spending from Hawaii's Gov. John A. Burns, Honolulu's Mayor Frank F. Fasi and hundreds of Hawaii citizens.

Today, I ask unanimous consent that the text of House Resolution 12, which was adopted unanimously by the House of Representatives of the Seventh Legislature of the State of Hawaii, be made part of the RECORD.

This resolution exhorts the President and the Congress to end the administration's moratorium on new commitments for federally subsized housing and community development programs. Hawaii presently faces a severe housing shortage. It is becoming more difficult for the average, and even the above average, wage earner to buy housing in my State. Those families who make a moderate or below average income are being frozen out of the housing market. Federal subsidies are essential if only to stabilize the present housing situation in Hawaii.

The statements of Hawaii's elected officials including the Governor, Democratic, and Republican State representatives, mayors, city and county councilors, in addition to the voluminous correspondence from other citizens support my belief that the people of Hawaii do not want our country to abandon its goal of "a decent home and a suitable living environment for every American family." Our citizens do not wish to abandon our country's commitment, as stated by Abraham Lincoln, "to do for the people what needs to be done, but which they cannot by individual effort do . . . for themselves."

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

H.R. No. 12

House resolution expressing the concern of the Hawaii State House of Representatives to President Nixon's halt on approving new commitments of Federal subsidized housing and community development programs, asking the President to reconsider his decision, and requesting Congress to take appropriate action to continue and expand Federal subsidized housing pro-

grams, particularly for low and moderate income persons, and community development programs

Whereas, President Richard M. Nixon ordered a halt on approval of new commitments of federal subsidized housing and community development programs; and

Whereas, the people of the State of Hawaii have a continuing need for housing and for community improvements; and

Whereas, the President's order may have an adverse effect on the health and welfare of Hawaii's people; and

Whereas, there is a continuing inflationary spiral in Hawaii's housing market making it close to impossible for low and moderate income persons to find homes to buy or rent within their financial means; and

Whereas, easing the present housing situation in Hawaii requires heavy investments of public funds to complement the investments in housing by the private sector; and

Whereas, neither State government nor local governments in Hawaii command the necessary funds from their own resources to substantially ease the situation; and

Whereas, a flow of federal funds for housing and community development programs to the State of Hawaii is essential if the State is to improve the housing situation, particularly as it affects low and moderate income persons; and

Whereas, the President's freeze on new commitments has already had adverse effects including announcements by developers of new projects that the prices of their units would have to be increased as much as twenty-five to thirty percent and decisions by other developers to terminate or delay badly needed new housing projects; and

Whereas, these adverse consequences of the President's freeze can be expected to aggravate the already serious housing problem in Hawaii; and

Whereas, the President's action freezing federal funds for housing and community development programs may also impose hardships on the economy of the State of Hawaii; now, therefore, be it

Resolved by the House of Representatives of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, that it does hereby express its concern over President Richard M. Nixon's order freezing the approval of new commitments of federal subsidized housing and community development programs; and be it further

Resolved, That the House respectfully requests the President of the United States to reconsider his decision to halt approval of new commitments for housing and community development programs; and be it further

Resolved, That the House respectfully requests the Congress of the United States to review, modify, improve, strengthen, and expand federal efforts and funding for housing and community development programs; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and Hawaii's congressional delegation.

THE ENERGY CRISIS AND THE CLEAN AIR ACT

Mr. COOK. Mr. President, on January 10, 1973, in an appearance before the Senate Committee on Interior and Insular Affairs, the Secretary of the Interior, the Honorable Rogers C. B. Morton, estimated that the Nation's demand for energy in the year 1985, will be 69 percent more than we used in 1971.

Unfortunately, the Secretary does not foresee our domestic energy capability growing by a comparable amount and estimates that our total energy imports will be almost four times greater in 1985 than they are today.

The tragedy of this forecast is threefold. In the first place, when we become dependent upon foreign powers for a large segment of our energy, we lose some of our own independence as a great power. Second, our current energy trade deficit of approximately $4 billion a year would increase to a projected $20 billion a year with a resulting devastating impact on our economy and our way of life. The recent devaluation of the dollar will automatically increase this deficit by an additional 10 percent. Finally and equally important, is the adverse impact on our domestic fossil fuel industry.

This is indeed a very disturbing forecast and I submit that it need not be so. There is an alternative. Nature has given the Nation an abundance of potential energy in the form of coal. This domestic resource is sufficient to meet our needs for several hundred years and as a minimum is certainly adequate to meet our needs until we can develop other means of supplying this energy from other domestic sources.

The problem that faces us then is not a shortage of fuel but rather a problem of how to use the abundant domestic fuel available to us without undue harmful effect on the health of the American people.

Several programs are now underway which show promise. Coal gasification should be commercially available by 1980. Other proven methods include the desulfurization and the liquification of coal. But under existing research programs, these methods are 6 or 7 years away. We just cannot afford to wait this long.

On several occasions when calling the attention of the Senate to the energy crisis, I have made specific reference to the efforts of the coal industry to supply the energy required by this Nation. One of the key contributions made by coal is in providing the fuel to generate electrical power. The full potential of this coal is not being realized and there is a danger that coal's limited contribution may no longer be possible.

The main problem facing the coal producer and the powerplant operator is that to my knowledge there is no effective commercially tested desulfurization system available for installation which will permit the consumer to burn high sulfur coal and meet the emission standards established by the EPA within the time limit established by the Congress which is 1975. The record will show that I voted for the Clean Air Act when it was passed by the Congress and I have not changed by views concerning the goals of this legislation. However, I am concerned about the rather limited effort being devoted to solving the problems related to meeting these standards.

I realize the chief objection to the use of coal from the standpoint of the Clean Air Act is its ash and sulfur content. The technology for removing fly ash from the stack gases of coal-burning plants has been developed to a high degree of efficiency and is ready available and should be employed. However, emission standards for oxides are another problem. Coals low enough in sulfur in the natural state or which can be cleaned by known means to meet these standards, are extremely limited. The techniques for removing the sulfur compounds from the stack gases are not yet commercially available.

When the State implementation plans under the Clean Air Act go into effect between now and 1975, they will specify the new source performance standard of 0.6 pounds of sulfur per million B.t.u. This will require, in the absence of other control means, the use of "East of the Mississippi" coal containing less than 0.7 percent sulfur. Unfortunately, this coal is scarce. The U.S. Bureau of Mines estimates that only about 8 percent of our coal reserves in this area of the country could meet the requirement.

In addition to meeting the above limits on new plants, I am concerned about how we can burn coal and meet the limits being imposed on existing units. Although the limits established by the EPA call for meeting the primary standards by July 1, 1975 as directed by Congress, the States are calling for the secondary standards to be met by the same date. This requirement makes it even more imperative that we devote increased effort to the problems of desulfurization and stack cleaning.

The Federal Register of May 31, 1972, quoted the EPA as follows:

> The State implementation plans to control SO_x (sulphur oxides), generally have been responsive to the mandates of the Clean Air Act. The plans provide for meeting by 1975 primary air quality standards which are designed to protect the public health. In most cases, the States determined 1975 to be the "reasonable time" allowed by the Act to meet the secondary air quality standards for SO_x which are designed to protect the public welfare. Fuel combustion regulations were designed to achieve both the primary and secondary standards by the 1975 date. In most States these emission regulations were made to apply statewide, without regard to the differing air quality in regions within the State.
>
> It is clear that achieving these rigorous state standards in the time prescribed would significantly enhance air quality in many areas of the Nation, as contemplated by the Clean Air Act. However, in addition to reviewing the effectiveness of each state implementation plan, this agency (EPA), and the Federal Government have an obligation to assess the impact of the various plans in the aggregate. From this standpoint, there is strong evidence that the complete implementation of the plans as submitted may not be attainable in the time prescribed.

By this statement EPA admits the real possibility that, under current conditions in the domestic and world fuel markets, all aspects of the State plans in the aggregate cannot be achieved by 1975 despite the best efforts of both Government and the private sector. If this is true, then I say to my colleagues that this "best effort" must be increased. It is just not the American way to accept defeat without an extensive counter effort.

I understand that EPA has been completing its studies of the aggregate situa-

tion to enable them to suggest necessary compliance schedule changes to the States. Such changes would include the modification of federally promulgated regulations for achievement of the primary standards—health related—by July 1, 1975. I will study this report very carefully and I suggest it be finalized at the earliest date and submitted to Congress and the Nation so that we may all better understand the problems ahead and the proposals to meet these problems.

According to the EPA, the States most likely to be affected by this shortage of clean fuels include Illinois, Indiana, Kentucky, Wisconsin, Michigan, Ohio, Tennessee, Alabama, Pennsylvania, West Virginia, Georgia, and New York, but others will also need to consider the availability of fuels in developing compliance schedules.

In order to determine just exactly what technological problems must be overcome to meet these standards, I dispatched a letter to Dr. Edward E. David, Director, the White House, Office of Science and Technology, on June 19, 1972, requesting information and suggesting the acceleration of programs designed to find ways to use our coal. I suggested that one solution would be for this Nation to develop a stack gas desulfurization system within the next 12 months. Such technical development would assist us as a Nation to meet our energy requirements from domestic resources.

Dr. Edward David responded to my letter and in his reply, which I request be placed in the RECORD, first, he informed me that "to our knowledge no system has been demonstrated on a commercial scale which meets the performance and reliability requirements of the regulations and the utilities." He also stated that there was no assurance that a system will be available within the next 12 months. This statement caused me great concern because without an acceptable system, the coal industry would be crippled severely.

As I was not satisfied with this finding, I forwarded Dr. David's letter to the Environmental Protection Agency for comment. In August I received a reply which I should like to include in the RECORD, second, I found EPA to be in basic agreement with the findings of the Office of Science and Technology. Dr. Greenfield, Assistant Administrator for Research and Monitoring, EPA stated:

> It is my judgment that while limited control technology now exists for dealing with some of our pollution control needs such as sulphur oxide, nitrogen oxide, and fine particles, it is at best rudimentary. Much work remains to be done to answer questions regarding process liability, life performance, and economics. Much work remains to be done to improve control systems economics and develop multipurpose systems to reduce the mounting costs of pollution control.

In his concluding remarks Dr. Greenfield states:

> I believe based on my assessment of the status of our present technology and emerging technology that even by applying our best efforts we will not be able to bring our major problems of air pollution under control until late in this decade or early 1980.

My reaction to this reply was that if much work needed to be done, then we had best get on with it, and I so urged. However, in my desire to approach this problem with care and to avoid any rash and hurried proposals, I continued to study the problems and alternate solutions for additional months.

In December of last year I again wrote to the EPA and the Office of Science and Technology and requested that they provide me with any new information which they may have.

On December 29, 1972, I received a reply from the Office of Science and Technology which reaffirmed that "it is not likely that technology would be commercially available before 1980. I would like to include this letter in the RECORD, third.

On January 16, 1973, the Environmental Protection Agency informed me that it would be 1980 before we could control "coal-fired electric utility sources for which fuel gas desulfurization technology is technically and economically practical. In addition, EPA informed me that it would also be 1980 before we could expect "to produce sulfur and particulate free fuels," fourth.

Mr. President, I ask the Congress, are not we being just a little bit arbitrary in demanding maximum output from our electrical power producers without a maximum effort to solve the problem which denies this same producer the use of his most available and abundant domestic source of fuel? I think we are.

Mr. President, I believe that the acceptance of this technological failure will have side effects which can have critical longrun national consequences to the economic and military security of our Nation, side effects which I do not believe were anticipated when the act was debated and enacted by the Congress. I do not believe that when the Congress moved to alleviate the threat of air pollution, it did so with a single-minded purpose which was consciously intended to transcend all other vital national goals such as fiscal integrity, national security and independence in the conducting of our foreign relations.

Mr. President, there is a real sense of urgency here. Assuming that the required technology is available in the near future, I submit that the lead time required to install a desulfurization system in our generating plants without reducing the capacity to meet the consumers' requirement for electrical power will threaten the attainment of announced goals. Admittedly, there is of course some reserve capability in each utility system which can be converted without immediate impact on output. However as units are taken "off the line" even on a very limited schedule, the remaining unconverted units must be permitted to continue operation to meet power requirements. To serve its customers, an electric utility has to deliver power reliably around the clock. This means that it can have only a small part of its' capacity—that which is in excess of demand—off the line for maintenance, repair, or experiment at any time. It cannot afford to engage in full-scale tests over long time periods with untried equipment without a crippling impact on power output. It cannot stockpile electricity. If it does not have enough capacity at the instance of demand, then it must shed part of the load or purchase power from neighboring systems. Unfortunately, today, few systems have power to spare.

I repeat, if the technology were available it would be most difficult to make necessary installations by 1975 and still meet consumer requirements. We cannot afford further delay.

In conclusion Mr. President, let me say that I am most concerned over this problem and intend to seek solutions wherever possible. I submit that without the benefit of a desulfurization system, we automatically force our utilities to turn to imported oil for fuel, thus compounding our oil shortage. The resulting dollar drain could literally cripple our economy. The recently published National Petroleum Council energy study indicated the need for 14.8 million barrels of imported oil daily by 1985. This alone would increase our trade deficit by $20 billion annually.

Perhaps an even greater danger lies in the changing global pattern of oil supply. Until very recently, nearly all residual oil imports came from Venezuela and other Caribbean nations with friendly and fairly stable governments. However, that part of the world is now producing oil to its capacity, and its oil is high in sulfur. The new imports of low-sulfur oil are coming—and will continue to come—chiefly from the Middle East where governments are volatile and are not notably friendly to the United States. They are now demonstrating their power by winning a 20 percent interest in the oil companies operating in their territory.

I have no faith that this will long satisfy them. Nor is the United States their only customer—western Europe and Japan are heavily dependent upon them. Russia is a potential customer, if only for the significant leverage it would thus obtain. It is not only possible, it is quite likely, that sooner or later one or more Middle East countries would decide to use its oil production for political purposes. The power to shut off a vital part of the energy supply upon which the United States is dependent is simply too potent a weapon to place in their hands.

These are, I believe, matters of the most far-reaching national concern which have an obvious impact on the continued viability of the Nation's coal industry as well as the Nation itself. I am certain that at least part of the impact was foreseen by Congress which attempted to moderate its impact by providing for research and development of technology which would permit coal to be used within the constraints of the act. However, regulations has today far outrun research. We must reverse this trend by increasing our research effort.

Mr. President, I ask unanimous consent that the letters which I make reference to in my remarks, be placed in the RECORD.

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

OFFICE OF SCIENCE AND TECHNOLOGY,
Washington, D.C., June 22, 1972.

Hon. MARLOW W. COOK,
Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: This letter is in response to your letter of June 19 urging an accelerated program to develop stack gas cleaning technology. This area was one of the three areas which the President designated for priority treatment in his Energy Message of last June. The EPA has been actively pursuing this technology as indicated by the attached summary of the projects which they are funding and their status. Industry has also been very active and have initiated a large number of projects with their own funds. I have enclosed a list of these activities from a recent issue of *Electrical Week.*

My office is currently participating in an interagency review of this technology which includes site visits and discussions with potential suppliers. To our knowledge no system has been demonstrated on a commercial scale which meets the performance and reliability requirements of the regulations and the utilities. While it is our hope that one or more of these systems will be proven adequate within the next 12 months we have no guarantee that such will be the case. Even if a successful demonstration should occur it would be virtually impossible to install an appreciable number of these systems in time to meet the 1975 standards.

I share your concern about the impact this will have on the coal industry, particularly in the East and Midwest. While some plants can shift to oil many do not have this option. Furthermore, it is costly and, as you point out, creates a greater dependency on imported oil at the expense of our abundant coal resources.

As Mr. Ruckelshaus stated recently, it may not be possible to meet the 1975 standards even with the best technological efforts of government and industry. I assure you we are actively pursuing programs to remove sulfur, not only at the stack, but prior to and during combustion. As you state in your letter, regulation may have outrun research. I believe it is important that Congress recognize the technological challenges involved in implementing the environmental legislation passed in recent years. If I can be of further help, please feel free to call upon me.

Sincerely,

EDWARD E. DAVID, Jr.,
Director.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., August 30, 1972.

Hon. MARLOW W. COOK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: Mr. Ruckelshaus has asked me to comment on the status of development of gas desulfurization systems. I agree with Dr. David's analysis of the status of flue gas desulfurization technology. Dr. David has pointed out that there has been a flurry of activity over the past two years in response to pollution control legislation. Most of this work has been undertaken by the Environmental Protection Agency (EPA) and the utility industry.

The utility industry approach has been to support the installation of at least one of most of the candidate processes which have been offered by suppliers. For the most part these processes have been the product of empirical designs by potential suppliers. The several processes now under design and construction within the utility industry represent untried systems. In the main, these are calcium based scrubbing processes which differ principally by the specific scrubbing equipment utilized.

Dr. David noted the problem associated with commercial application of gas desulfurization processes which is likely to result from the limited rate of construction and application of such processes once they have been developed. In addition, it is important to recognize that the principal candidate processes (lime, limestone, magnesium oxide scrubbing, catalytic oxidation and possibly the Wellman-Lord process) can not in themselves adequately handle the full range of sources that must be controlled. Factors such as disposal of solid waste material, marketing of marginal quality by-product, age of the power plants to be controlled and real estate requirements will significantly limit the application of these processes. Additional control processes which are capable of converting the sulfur pollutant to products that can be stored or converted to storable end-products are needed.

Most of the sulfur oxide control process work that has been done to date has been for the control of emissions from utility plants. As a result, nearly all of the emerging technologies relate most directly to control of large fossil fuel fired power plants. Of equal and frequently greater importance are the sulfur oxide problems resulting from the combustion of fossil fuel in industrial combustion units. The size of these units is frequently such as to make the application of the large regenerable processes which might be used on electric utility plants impractical for use on smaller combustion systems. Similarly, area sources, many of which reflect the use of sulfur containing fuels, are important contributors to ambient sulfur levels in many of our most polluted urban areas. The most realistic and economical approach to the control of sulfur oxides from these sources, is through the use of sulfur free fuels. At present naturally occurring fuels are inadequate to supply this need. Fuel cleaning technology is just now being developed and will not impact on the availability of low sulfur fuels until late in the decade. It is critically important, however, that we proceed with the development of fuel cleaning technology to address this segment of the problem. Fuel cleaning techniques, such as high and low BTU gasification, chemical cleaning, mechanical coal cleaning and liquid extraction processes, all offer promise for contributing to the supply of needed sulfur free fuels. The availability of viable fuel cleaning techniques would serve to make many of the high sulfur fuels available for power generation without adversely affecting the environment.

Combustion of fossil fuels, especially the combustion of coal, is a major source of air pollution other than sulfur oxide. By virtue of both the higher quantity of chemically bound nitrogen and the combustion characteristics of coal, this fuel is a principal source of nitrogen oxide emissions from stationary sources. This problem is further complicated by the lesser degree of control that can be exercised on the coal combustion process as compared to oil or gas. Coal combustion is also a major source of fine particulates which represent a major contribution of trace metal and hazardous air pollutants. To ensure that we do not find ourselves in the position of having solved one pollutant problem relating to the combustion of coal without having developed adequate solutions for the nitrogen oxide and particulate control problem, it is essential that research towards control techniques for the control of these pollutants be concurrently conducted.

The state-of-the-art of air pollution control technology is in an early stage of development. The rudimentary stage of development of technologies for the control of pollutants such as sulfur oxide, nitrogen oxide and fine particulates still forces us to consider each pollutant separately, thus compounding the potential economic burden for control. Some possibilities for concurrent control of these pollutants do exist. Clean fuel technology is an example. Our research and development programs in this and other areas are aimed at identifying and developing such systems with the objective of minimizing the cost of pollution control while still providing the technology necessary to maintain adequate air quality.

It is my judgment that while limited control technology now exists for dealing with some of our pollution control needs such as sulfur oxide, nitrogen oxide and fine particulates, it is at best rudimentary. Much work remains to be done to answer questions regarding process reliability, life, performance and economics. Much work remains to be done to improve control systems economics and develop multipurpose systems to reduce the mounting costs of pollution control. Although I feel that now is the time to begin imposing controls to check the run-away trends toward excessive pollution, it must also be recognized that our efforts are just beginning and the problem will not be solved overnight. I believe, based on my assessment of the status of our present technology and emerging technology, that even by applying our best efforts we will not be able to bring our major problems of air pollution under control until late in this decade or the early 1980's.

I hope I have been responsive to your letter. Please let me know if I can be of further assistance.

Sincerely yours,

STANLEY M. GREENFIELD, Ph. D.,
Assistant Administrator for Research and Monitoring.

OFFICE OF SCIENCE AND TECHNOLOGY,
Washington, D.C., December 29, 1972.

Hon. MARLOW W. COOK,
Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: The latest information available to me regarding the status of stack gas cleaning technology indicates that as of the present time two systems have been operated for short times satisfactorily in Japan, one of them an aluminum plant and one a rubber plant. While there are differences between these systems and those required for electrical utilities burning high sulfur coals, it is hoped that an adequate demonstration of the technology for utility use will be completed in 1973. However, the limestone scrubbing process continues to have serious solid waste disposal problems associated with it which render it unusable for many locations. Technology producing a marketable or disposable by-product has not yet been demonstrated. It is expected that systems now undergoing testing or still under construction will adequately demonstrate this technology sometime before 1974.

Some utilities because of the pressures upon them have begun to order stack gas scrubbing equipment in spite of the technical uncertainty at the present time. Experience to date suggests that costs will be above those projected and will probably approach $50-$70 a kilowatt for new installations. For retrofit purposes I would expect the cost to be still higher.

The combination of high cost and technical uncertainty at the present time has caused many utilities to turn to oil as a reasonably assured solution to the clean air requirements unless they operate within a region where Western low sulfur coals can be obtained at competitive prices. In either case Eastern and Midwestern higher sulfur coals would lose potential markets.

At the present time we have under review options other than stack gas cleaning which have been in the research phase and are about to enter the pilot plant phase. The chemical cleaning for coal and coal liquefaction appear to be the most promising. These

options would appear to provide an attractive longer range solution to the continued use of coal in conformance with environmental standards but it is not likely that the technology would be commercially available before 1980. Such a solution would permit the utilities to burn a clean fuel derived from high sulfur coals without having to install complex chemical systems to remove sulfur at the stack. In my judgment such a solution would represent an optimum answer to the dilemma in which we find ourselves and my Office, working with the Office of Coal Research, and other agencies is evaluating these options at the present time.

Sincerely,

EDWARD E. DAVID, Jr.,
Director.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., January 16, 1973.

Hon. MARLOW W. COOK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: This letter is in response to your request of December 1, 1972 for additional information concerning progress in achieving commercially feasible desulfurization systems by 1975.

Over the past seven years the Environmental Protection Agency, in cooperation with private industry, has been engaged in a program for the development of desulfurization systems. Initially this effort concentrated on post-combustion flue gas desulfurization systems applicable to utility and large industrial combustion emitters. More recently, to support achievement of national ambient air quality standards, this effort has been broadened to place increased emphasis on the development of pre-combustion coal and oil cleaning processes for the control of commercial, residential and small industrial sources where complex flue gas treatment processes are impractical. These smaller sources, although contributing a small fraction of total emissions, have been shown to be the primary contributors to the degradation of urban ground level ambient air quality.

A series of flue gas desulfurization processes will have been developed and demonstrated by 1975 on commercial-scale utility and industrial combustion sources. The schedule of completion for these EPA-sponsored processes providing sulfur removal efficiencies in the range of 75% to 90% is as follows:

First, lime/limestone scrubbing will be demonstrated by June 1974 on the Shawnee plant of TVA and on the electric generating plant of the City of Key West, Florida. Over 20 commercial installations of this generic type of desulfurization process have been ordered at this time by the utility industry for the control of about 6,000 mw of generating capacity. Second, demonstration of magnesium oxide scrubbing with sulfur by-product regeneration will be completed on the oil-fired Mystic River plant of Boston Edison by December 1973, and on a coal-fired generating station of the Potomac Electric Power Company by May 1974. Third, demonstration of the Cat-Ox catalytic oxidation process producing dilute sulfuric acid will be completed on the coal-fired Wood River plant of the Illinois Power Company by December 1973. Fourth, demonstration of the Wellman Power Gas caustic scrubbing process and associated elemental sulfur recovery system will be completed with Northern Indiana Public Services Company by mid-1975.

These commercially-demonstrated processes will provide a substantial technical foundation for the control of coal- and oil-fired utility sources by 1975. It is estimated that by that date, 10,000 to 15,000 mw of the total coal-fired electric generating capacity of 200,000 mw will be operationally controlled by these flue gas desulfurization processes. An additional five years will probably be required to control all coal-fired electric utility sources for which flue gas desulfurization technology is technically and economically practical.

Rapid progress also is being made in the development of technology for the removel of sulfur and other pollutants from coal and oil prior to combustion. This technology for coal is, however, less mature than flue gas desulfurization technology and will require considerable continued development effort before practical processes are commercially available to achieve ambient air quality standards. Specifically, EPA-sponsored projects for the chemical leaching of pyritic sulfur from coal are expected to be demonstrated and available by 1976. Solvent refining of coal and the submerged combustion of coal in molten iron to produce sulfur- and particulate-free fuels are expected to be commercially available by 1978 to 1980. Completion of the development of high- and low-Btu coal gasification technology is forecast in the 1980 to 1985 time period. The development of gasification technology is a cooperative venture between the Department of the Interior and EPA, with EPA concentrating on the removal of sulfur and other pollutants from the produced fuel gas.

I hope that this material, in conjunction with our August 30, 1972 correspondence, has been responsive to your needs. Please contact me if I can be of further assistance.

Sincerely yours,

STANLEY M. GREENFIELD, Ph. D.,
Assistant Administrator for
Research and Monitoring.

THE BUDGET CRISIS IN THE STATES

Mr. HUGHES. Mr. President, large headlines in the Des Moines Register tell us "Iowa Budget Crisis Feared." The cause of the budget crisis in Iowa is the same as in many other States—the President's proposed budget for fiscal 1974, as well as the cutbacks and impoundments already in effect. Another story is highlighted, saying "HEW Rules Will Force End to 16 Polk Welfare Projects." Not a cutback, not a tightening of the belt, but an end to programs and services which in case after case has meant the difference between being a wage-earning member of society and being on welfare. The culprit in this case is primarily the new social services regulations promulgated by the Department of Health, Education, and Welfare on February 16, 1973.

The stories speak for themselves. They indicate that if the President's budget and administrative actions are allowed to go into effect, our States and localities will be in real difficulty. Is this what the "new federalism" is all about? Is this the intended result of the admonition to do more for ourselves?

A third Iowa story concerns itself with the administration's farm program. It, too, makes one wonder where we are heading. Is it really responsible to advocate a farm program which would, according to USDA's own study result in sharp drops in farm income and would drive many smaller farmers out of business?

We are now beginning to see, Mr. President, step by step, what Mr. Nixon's proposals will mean as they affect the lives of people. I ask unanimous consent that these articles be printed in the RECORD at this point.

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

[From the Des Moines Register, Mar. 1, 1973]

IOWA BUDGET CRISIS FEARED: SEE BIG CUTS BY NIXON IN FEDERAL AID—IMPERILS SOME OF STATE PROGRAMS

(By James Flansburg)

President Nixon's budget policies apparently have thrown Iowa's state and local governments into their own budget crises.

The indications are that they are not going to get as much federal money as they thought they'd have.

That means that a number of programs will have to be curtailed or killed or that their financing will have to be found elsewhere.

The dimensions of the problem are not certain, but at least 10 per cent of the $240.7 million that Iowa state agencies received in federal aid this year probably will not be there next year.

That is in addition to the $70 million the President has impounded so it can not be spent on federal programs in Iowa during the current fiscal year.

IMPACT STUDY

The state's Office of Planning and Programming is making a study of the impact of the federal budget on the state budget, but the study is two weeks away from completion.

Meanwhile, Gov. Robert Ray is in Washington, D.C. for the second time in a month seeking budget answers, and members of the Iowa Legislature—currently conducting appropriations hearings on Ray's 1972–73 budget askings—are starting to come across piecemeal evidence of the impact of Mr. Nixon's budget proposals.

The University of Iowa at Iowa City reported that its federal grants over the next two years will be reduced by $9.6 million.

The state's library system reported that its $500,000 annual federal grant will end on June 30, the end of the current fiscal year.

The Social Services Department reported that its federal grants will be down at least $3 million next year.

YOUTH CORPS

The $2-million Neighborhood Youth Corps program has been killed.

Since Ray's 1973–75 budget asking of $1.579 billion are based on the premise that Iowa will continue to receive the same amount of money, two legislators, Senator Ralph McCARTNEY of Charles City and Representative Charles Grassley of New Hartford, have suggested that the governor may want to revise his askings.

"I just think he's going to have to send up a revised budget," said McCartney.

Ray's chief budget officer, State Comptroller Marvin Selden, said he thinks a revised budget is a likelihood next year.

"I don't think we'll have any answers quick enough to do any good this year," said Selden, adding that he thinks the term budget crisis is too strong.

"DON'T KNOW ENOUGH"

"I don't think it's that earth shaking," said Selden. "But don't ask me to support my views because we just don't know enough about it yet."

Grassley, chairman of the House Appropriations Committee, said he originally had planned to pass about $30 million in Ray's capital appropriations asking through the Legislature before it recesses for a week on Mar. 9.

"But I think we'll have to drop that idea now," said Grassley.

Lt. Gov. Arthur Neu, the Senate's presiding officer, said it is likely that some state programs, partially funded by federal cash, will have to be dropped.

The alternative would be a tax increase or a shift of cash from other state programs—neither of which would find much favor in the Legislature.

"I just don't think it's realistic to think that the state can fund all these programs that are being cut," said Neu.

"Some agencies are just going to have to adjust, although I don't think the full impact is going to hit us during this session. It will be more likely to come in the interim and we'll have to handle it next year."

Republicans Hay and Neu and leaders of the Republican-controlled Legislature have been particularly frustrated because the policies of a Republican President are the cause of their problem.

Neu was asked if he wished a Democrat occupied the White House so that he could denounce him.

"It would help," said Neu, adding, however, that he strongly supports Mr. Nixon's attempts to overhaul the federal budget.

"I think all of his predecessors have been incredibly irresponsible on budgeting", said Neu.

CAUGHT IN CROSS FIRE

The big view of all this is that the state and local governments of the country are caught in a cross fire in a battle between Mr. Nixon and Congress.

Mr. Nixon has supported two forms of federal revenue sharing—general and special—to give the local governments more leeway in spending federal money.

Last year, Congress approved the general revenue sharing, sending about $75 million a year to Iowa (and $30 billion to the entire country over a 5-year period) but did not move on his special revenue sharing program.

The special revenue sharing program would replace most of the so-called categorial grants—grants to finance specific programs—and again give the local governments more flexibility in spending federal money.

Since the failure of the special revenue part of the proposal, the Nixon administration has been killing the special purpose programs that would go into the special revenue sharing system.

LEADERS MIFFED

"In effect," the Wall Street Journal reported earlier this week, "the President is telling Congress to enact his special revenue sharing system promptly; or to face the prospect of a rapidly dwindling distribution of federal cash to their communities."

While Iowa's Republican leaders support the President in his battle, they are miffed that Mr. Nixon has not outlined—even privately—his goals.

Said Neu: "If, when revenue sharing came in, he would have indicated where the cuts would be, it would have been easier to hold on to the revenue sharing money and then see if it should be applied to the existing programs."

As it is, said the lieutenant governor, the state and local governments may be put in a position of having planned the spending of the general revenue sharing cash and then have to change courses.

Meanwhile Wednesday, Democrats in the Iowa Legislature began to smell some political advantage in the budget crunch and sent off a letter to Ray suggesting that no budget decisions should be made until after the impact of the federal budget is known.

LETTER TO RAY

"That means that we'd still be in session next December," said House Ways and Means Chairman David Stanley of Muscatine, "because Congress won't get around to acting on most of this until then."

In their letter to Ray, Democratic floor leaders in both houses called on the governor to:

"Re-examine your proposed budget with the goal of presenting a new budget to the General Assembly that realistically takes into consideration all matters that will affect the budget.

"Present any information at your disposal regarding federal cutbacks that will assist the Legislature in budgeting available funds."

The letter also contained these lines without elaboration:

"We cannot be faced with the possibility of having you shifting your position regarding available money and budget priorities after the Legislature has made some major budget decisions."

The letter was signed by Senate Democratic Floor Leader James Schaben of Dunlap and his assistants, Gene Kennedy of Dubuque and Bess Van Gilst of Oskaloosa and by House Democratic Floor Leader Dale Cochran of Vincent and his assistants, Arthur Small of Iowa City and James Wells of Cedar Rapids.

[From the Des Moines Register, Mar 1, 1973]

USDA STUDY REBUTS BUTZ ON FARM AID—PREDICTS CONTINUED HIGH PRICES, FEWER FARMS WITH NO SUPPORTS

(By George Anthan)

WASHINGTON, D.C.—A little-noticed government report concludes that steps to end farm support programs would lead to sharp drops in farm income, and would drive many smaller farmers out of business.

The report was prepared recently by the U.S. Department of Agriculture's (USDA) Economic Research Service, at the request of Senator Herman Talmadge (Dem., Ga.), chairman of the Senate Agriculture Committee.

POSITIONS CHALLENGED

The report, in some aspects, challenges the official positions of the USDA, Agriculture Secretary Earl Butz and President Nixon, who contend that farmers can continue to enjoy relatively high incomes even if government aid programs and controls are phased out. Butz says farmers can continue to earn more by producing more.

President Nixon announced his proposals to phase out federal farm programs in a Feb. 15 message to Congress.

Don Paarlberg, chief of the USDA's Economic Research Service, said Wednesday the "essential parts" of his agency's report were completed before Mr. Nixon's speech.

Paarlberg said he does not believe White House officials were aware of the contents of the report prior to the message. Paarlberg emphasized the report was based on elimination of federal farm programs, instead of the "phasing out" proposed by Mr. Nixon.

The administration proposals have encountered strong opposition from some farmers, who contend these plans would lead to periods of surplus production with prices received by farmers dropping below cost levels and resulting in thousands of farm bankruptcies.

SEES DECLINE

The USDA Economic Research report states, "in the first year of no (farm) programs, aggregate farm incomes would decline sharply and would continue to decline for two or three more years."

If all price support and crop adjustment programs were discontinued, the report states, "It is by no means certain that farm prices and incomes at the end of the decade would have recovered to the levels of recent years."

(Net income realized by farmers in 1972 was a record-breaking $19.2 billion. High farm prices, largely a result of expanded exports and higher demand in the U.S. have triggered a surge in domestic food prices, causing concern among consumers and pressure on the administration and Congress to roll back the increases.)

The USDA report continues, "lower incomes would result from the absence of government payments, lower product prices and higher costs of grain production due to expanded acreage."

In one key statement, the report notes. "These factors would dominate the change in income despite the larger volume of production."

"Incomes," the report continues, "would drop first and sharpest on crop farms. Livestock production would expand little the first year or two and livestock prices would not drop significantly relative to prices that would prevail with continuation of present programs."

ADMINISTRATION VIEW

This is in contrast to some official USDA and Nixon administration productions that elimination of government supports and production controls would lead to expanded livestock herds, and thus lower meat prices at the grocery stores.

The report states that phasing out of government farm programs could lead to lower feed costs eventually, causing some increase in livestock production, and "somewhat lower prices in succeeding years."

The Economic Research Service believes "that for the next decade at least, the crop production potential of U.S. agriculture will continue to be large relative to commercial market demand.

"Most analysts suggest that United States farmers can produce more . . . food and feed grains than the commercial market will accept without a substantial decline in prices."

But a group of 50 Iowa farmers, members of the Farmers Grain Dealers Association, were assured by top USDA officials in a meeting here Wednesday that the government's best estimate is that if they produce larger crops, there will be expanded domestic and foreign markets for these products, at prices that will guarantee the farmers a reasonable return. Many members of the group expressed strong skepticism over these assurances.

$40,000 SALES

The Economic Research Service concludes that farms with more than $40,000 annual sales would suffer the greatest loss from an end to government programs.

It also states, "Farms which produce the bulk of U.S. farm production would all have substantial income resolutions."

More than 250,000 American farms have gross sales of more than $10,000 a year, and many Iowa farming operations would fall within this category.

The report backs up predictions of the Iowa farmers here that Nixon administration proposals could lead in widespread bankruptcies among farmers.

"As incomes from farming declined," the report states, "marginal producers would be forced out of production. However, some of their land and other resources would be used."

LAND PRICES

The report predicts that an end to federal farm programs also would result in lower prices for farm land and added, "Many of the ex-farmers likely would continue to reside in the rural areas while working at off-farm jobs so that more nonfarm income would flow into rural communities. With more nonfarm incomes available to support family living, the pressure to sell land would not be as severe as could be expected from the decline in farm incomes. By 1980, land values might be 5 to 6 per cent lower than with continuation of current programs."

But James Jorgenson, a Hampton, Ia., farmer, told the Senate Agriculture Committee Tuesday, "The nation's desire for a cheap food policy has caused the exodus of millions of America's rural people." He said this has caused overcrowding of urban areas with unskilled persons and has led to many social problems.

The USDA report notes that in some rural areas there are few nonfarm jobs available to provide the incomes necessary to keep former farm families from moving out.

The Library of Congress' research service

also has raised serious questions concerning the Nixon administration's farm proposals.

In its own report, this agency emphasizes that administration plans to control production in the future through a general land retirement program would have an especially adverse impact on small farmers.

PREVIOUS CROPS

Currently, land is taken out of production based on how many acres of crops a farmer planted in previous years. Small farmers must use all their land for growing crops and thus would be forced to idle a larger percentage under administration plans, the agency contends.

The Library of Congress report concludes that small farmers would be at a disadvantage unless provided with a federal income supplement as well as a rental payment for crop land idled or diverted from major crop production.

[From the Des Moines Register, Mar. 1, 1973]

HEW RULES WILL FORCE END TO 16 POLK WELFARE PROJECTS

(By Stephen M. Johnson)

Unless state and local officials come up with more than $2.4 million in the next few months, 16 social welfare programs serving more than 12,000 Polk County residents will close down, a top local official said Wednesday.

Programs providing health care, day care, family planning, and services to the elderly are threatened with extinction because of recently ordered changes in federal guidelines governing the local use of federal dollars.

Quenten Emery, director of the Polk County Department of Social Service, said Wednesday these guidelines, unless changed by the Department of Health, Education and Welfare (HEW) or circumvented by Congress, will result in the loss of $2,472,400 in federal funds needed to keep many local programs alive.

The new HEW guidelines prohibit the use of local matching money to attract federal funds. Henceforth, local government and private agencies will have to pay the total cost of running such programs.

The guidelines also tighten eligibility requirements for welfare clients. Henceforth, only those clients who already receive Old Age Assistance or Aid to Dependent Children (ADC) payments will be eligible to receive federally backed social services from local agencies.

James Gillman, state director of social services, said Iowa stands to lose about $5.6 million in federal funds for social welfare programs presently being administered by counties.

Gillman said this would result in a loss of services to about 45,100 loans "if the new guidelines were put into effect right now.

"Its important to stress the diversionary aspect of the new rules," Gilman said. "There won't be any more potential clients. Only people eligible to receive public assistance will be eligible for social services."

Gillman said the result will be that his department no longer will be able to offer "preventive" services, but only "curative" services.

Gilman said that the statewide figure of $5.6 million represents the actual loss of federal funds currently flowing into the state. He said Emery's figure of $2.4 million for Polk County alone represents the "projected" loss of federal funds for programs now in operation and those programs Emery had hoped to put in operation later this year.

Polk County Budget Director James Sarcone said must meet cutbacks in federal programs are hitting Emery's department hardest, and it is these cutbacks that will force the county to come up with additional funds.

Sarcone said he does not expect substantial reductions in Law Enforcement Assistance Administration (LEAA) funds for Polk County, but he said certain new programs being drawn up by the county's Alcoholism Service Center now are in jeopardy because of the unavailability of dollars from Washington.

Emery said there is no money currently available at the county level to keep many of his programs alive, and that money can be found only by raising state or local taxes, or by using state or local revenue-sharing funds for the programs.

Emery said he will not know for sure which local welfare programs will survive until President Nixon makes known details of his future revenue-sharing proposals, and until Congress acts on his budget recommendations for fiscal 1974.

Emery also expressed hope that widespread opposition to the new HEW guidelines from state and local welfare officials will force the agency to rescind or modify the guidelines. If the guidelines are not changed, they will go into effect April 1, Emery said.

FARM SUBSIDIES

Mr. CLARK. Mr. President, two very good Iowa farmers were the subject of a New York Times article on February 28 which dealt with the value of Government farm programs. I happen to be an acquaintance of Mr. Fred McLain of Nevada so I personally know how knowledgeable and capable a farmer he is. Mr. Rudy Eahm of Creston, Iowa, was the other farmer interviewed and although I do not know him, I value his opinion.

Both of these farmers agreed that Government programs were vital to the farmer and should be retained. I think their comments and insight about farming will be valuable information for my Senate colleagues and there being no objection, I ask unanimous consent to insert this article in the RECORD.

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

ANXIOUS FARMERS KEEP EYE ON WASHINGTON

(By Douglas E. Kneeland)

DES MOINES, Feb. 27.—While the folks in Washington began talking about phasing out farm subsidies today, some weary farmers out here in the midlands watched with growing traces of anxiety and talked a bit themselves.

There's something about the beginning of hearings on a new farm program that always leaves farmers sniffing the air as apprehensively as cattle disturbed by the sound of distant thunder.

Today, as the Senate Agriculture Committee took up work on a new farm bill in Washington, was no exception. In many farmers, a sense of restlessness has begun to dissolve the euphoria derived from a year of record livestock prices and bumper grain crops that did not, as has often been the case, depress the market.

Particularly troubling to a lot of farmers was President Nixon's proposal that Congress phase out most of the subsidies and controls under which agriculture has operated for years.

SNOW AND MUD

It's February and it's gray in Iowa. And a warm spell has left only dwindling patches of snow, which turn the brown corn fields to mud. During this dormant in-between season, according to those who know them best, the feelings of most Iowa farmers—and they are probably as typical as any in the nation—have been as ambivalent as the weather.

As always happens in a good year, let alone a great year, their free-enterprise instincts tell them that happiness would be to be rid of controls and subsidies, to plant from fence to fence, to raise all the cattle and hogs they can, to trust the marketplace and reap ever-bigger profits.

But their sense of history cautions them that farming has always run in boom-and-bust cycles, that free of controls the American farmer's productivity and competitiveness can turn out price-depressing surpluses unequaled anywhere on earth.

Moreover, they stand warned that the President's aim in seeking a free farm economy is to increase production in the hope that food prices will fall, and perhaps to produce relatively cheap grain for export to help improve the country's unfavorable balance of payments.

TOTAL FREEDOM NOT WANTED

Although farmers usually consider themselves rugged individualists, few can be found, who if pressed on the point, really want to return to total freedom in agriculture. And their fears about the results of such an action appear to cut across all sorts of political and ideological lines.

It might be difficult to find two farmers with much more diverse political philosophies and outlooks on a number of subjects than Fred McLain of Nevada (pronounced naVAY-da), about 30 miles north of Des Moines, and Rudy Eahm of Creston, about 70 miles to the southwest.

Fred McLain, 52 years old, is an active Democrat, a * * * ers Union and a former state chairman of the Agricultural Stabilization and Conservation Service under national Democratic Administration's of the nineteen-sixties.

Rudy Eahm, 45, is a Republican member of the Union County Board of Supervisors and belongs to the conservative American Federation of Farm Bureaus.

Both are successful farmers and somewhat representative of those who have given much thought to the new farm bill. Both are worried about what would happen should President Nixon succeed in eliminating subsidies and controls.

"Most all of my life we've had surplus problems and there's always been some kind of a crying need for a stabilization program," said Mr. McLain, an outgoing baldish man with a face that mirrors his shifting moods. "You go back into the fifties, the last years of the free programs. We've been cutting back every year since and even then until last year we've continued to have surpluses."

"The prices we're receiving now have nothing to do with the programs of this Administration. I think if we continue now on the road we're on with a continuing watering down of the program, that we're in for a real disaster."

Mr. McLain, who raises corn and soybeans and feeds about 200 head of cattle a year on the 1,200 acres of land that includes the farm homesteaded more than 100 years ago by a great-grandfather, said that he was afraid that because of consumer pressure as a result of high food prices, President Nixon might get his way even if he had to veto a bill passed by Congress.

If that happens, he said, he can see no way to avoid surpluses and a resultant drop in farm prices.

Mr. McLain expressed more concern, as do many farmers, about the removal of controls on the amount of land a farmer can plant in various crops than he did about the potential loss of direct subsidy payments.

A corn farmer for instance, who signs up for the present program and pulls a certain amount of his land out of production, is then eligible for a subsidy payment of 32 cents a bushel on half of his average production or

he gets the difference between the market price and $1.35 a bushel, which ever is higher.

"The danger if you take away this program," Mr. McLain said, "is that the possible loss due to overproduction is perhaps double the loss of the payment in the first place."

Later, about 100 miles to the southwest, Rudy Eahm, a staunch Nixon supporter, sat in the office of his new bull-testing station on his farm in Creston and protested with equal dismay about the President's plan.

Mr. Eahm, who tests bulls for rate of gain in feed lot conditions and raises corn and hay to feed more than 400 head of his own cattle a year, said that Mr. Nixon's "feelings, I suppose, are consumer-oriented."

"I suppose the idea is to keep the old food prices down," he went on, straightening the Stetson that set off his olive suit, gold shirt, gold string tie and boots. "I don't agree with him. The programs have been good programs."

"I would say that no one likes controls," he continued, "including myself, but I don't think that we could operate, that we could go without controls, ourselves. Having controls on these crops is like having traffic controls. That doesn't mean that freedom's taken away from us. It's for our own good."

The American farmer also has the problem this year of convincing city-dwelling consumers that he has troubles.

"If you're going out on the farms," said a local bartender, who complained wearily of the 13 years he had listened to farmers in running a restaurant in a small town, "you'd better wear a raincoat. They'll get tears all over you.

"If you have two days of sunshine, they say it's going to be too dry. If you have two days of rain, they say it's going to be too wet. Farmers are the world's worst gripers."

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to current Census Bureau approximations, the total population of the United States as of today, March 1, 1973, is 210,380,160. In spite of the widely publicized reductions in our fertility levels, this represents an increase of 1,527,316 since March 1, 1972. It also represents an increase of 84,522 in just the last month.

Over the year, therefore, we have added enough additional people to fill a city larger than Detroit, and in just 1 short month, we have added a number about the equivalent of the population of Camden, N.J.

OPENING STATEMENT FOR NEWSMEN'S PRIVILEGE HEARINGS

Mr. ERVIN. Mr. President, on Tuesday, February 20, the Subcommittee on Constitutional Rights opened a series of hearings into the so-called newsmen's privilege legislation. At the outset of these deliberations, I made a statement in which I attempted to delineate the background against which this legislation must be considered and the problems which must inevitably be faced in drafting.

I ask unanimous consent that the text of these remarks be printed in the RECORD.

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

OPENING STATEMENT OF SENATOR SAM J. ERVIN, JR.

Thomas Jefferson wrote in 1787: "The basis of our government being the opinion of the people, the very first object should be to keep that right; and 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."

The Founding Fathers, of course, decided that we should have both government and newspapers. Ever since then we have time and again sought to reconcile asserted government necessity—warranted or not—to the demands of the First Amendment. And today, almost two hundred years later, we again find ourselves attempting to define the relationship between these two essential components of our society. Specifically, we will consider in these hearings the question of whether government should be permitted to compel the press to reveal the identity of confidential sources of information or the content of unpublished information.

The subcommittee held hearings in late 1971 and early 1972 entitled "Freedom of the Press," and a considerable amount of testimony on the desirability of such an innovation was heard at that time.

The controversy, however, goes back considerably further. Back, in fact, at least a century. The first reported case of a newsman refusing to reveal the source of a news story to a grand jury was in 1874. There have been sporadic instances ever since. The courts, traditionally unhappy about evidentiary privileges which limit judicial access to information, by and large have refused to recognize a common law right of reports not to identify sources or to disclose confidential information.

As a consequence, some eighteen state legislatures have seen fit to pass laws providing for some type of protection. To this point, the Congress has not, although bills providing for a newsmen's privilege have been introduced in the Congress since 1929.

The situation, until the present controversy arose, has largely been one of an informal accommodation between newsmen and prosecutors. The newsman has been willing to give testimony under certain conditions, and prosecutors have sometimes been willing to recognize the harm to confidential sources in those cases where the reporter balked. Often they did not press their demands for testimony. Of course, where demands were pressed, the reporter faced a jail sentence for contempt if he insisted on remaining silent. If court challenges ensued, inevitably the reporter would lose. Even in states which had protective statutes, courts have been prone to look for ways to get around them, and thereby obtain the newsmen's testimony.

Despite the frequency of these clashes, no case involving this matter had ever come to the Supreme Court until last June, when in a controversial 5–4 decision the Court ruled that the First Amendment's guarantee of a free press did not entitle a newsman to refuse to reveal his confidential source to a grand jury. Justice White, writing for the majority, stated:

"Until now the only testimonial privilege for unofficial witnesses that is rooted in the Federal Constitution is the Fifth Amendment privilege against compelled self-incrimination. We are asked to create another by interpreting the First Amendment to grant newsmen a testimonial privilege that other citizens do not enjoy. This we decline to do . . . We perceive no basis for holding that the public interest in law enforcement and in ensuring effective grand jury proceedings is insufficient to override the consequential, but uncertain, burden on news gathering which is said to result from insisting that reporters, like other citizens, respond to relevant questions put to them in the course of a valid grand jury investigation or criminal trial. . . . [T]he evidence fails to demonstrate that there would be a significant construction of the flow of news to the public if this court reaffirms the prior common law and constitutional rule regarding the testimonial obligations of newsmen."

Justice Stewart, in his dissent, took issue with the practical effect of the majority's holding, and urged a qualified privilege of his own:

"We cannot escape the conclusion that when neither the reporter nor his source can rely on the shield of confidentiality against unrestrained use of the grand jury's subpoena power, valuable information will not be published and the public dialogue will inevitably be impoverished. . . . A corollary of the right to publish must be the right to gather news. . . . I would hold [in order for a grand jury to compel testimony from a newsman] that the government must (1) show that there is a probable cause to believe that the newsman has information which is clearly relevant to a specific probable violation of law; (2) demonstrate that the information sought cannot be obtained by alternative means less destructive of First Amendment rights; and (3) demonstrate a compelling and overriding interest in the information."

In a separate concurring opinion, Justice Powell indicated that the Court may not in the future turn deaf ears upon newsmen if the government can be shown to have harassed the newsmen, or has otherwise not acted in good faith in the conduct of its investigation or inquiry. But for now the Court has left it to the Congress to determine the desirability and the necessity for statutory protection for newsmen. This is precisely the point of our deliberations over the next two weeks.

Certainly what has happened since the Supreme Court's decision has not allayed our concern. We have been witness to the spectacle of several reporters being sent to jail for their refusals to identify confidential sources or to make available unpublished materials. To be sure, most of the recent cases have involved state, rather than federal proceedings; but they indicate nonetheless that the *Caldwell* decision may have been the green light which prosecutors and judges alike were waiting for. The large volume of mail which the subcommittee has received on this matter indicates substantial public concern that the *Caldwell-Branzburg* case may seriously stifle access to news and information.

Our problem, then, in a nutshell, is to decide whether or not to adopt some form of statutory protection and, if so, what form that protection should take. In doing so we must resolve many very delicate issues. We face a complicated legislative responsibility not unlike the one the Founding Fathers dealt with two hundred years ago, and I do not presume that we have the same wisdom as they. It would have been far better if the Court had properly faced the issue last June. To write legislation balancing the two great public interests of a free press and the seeking of justice is no easy task. This is a problem better approached through case-by-case litigation rather than through inflexible statutory words. Nonetheless, we must try.

First of all, does the lack of a testimonial privilege for newsmen really present a problem? There has never been such a federal privilege before, and yet sources of information have obviously not "dried up." There has always been a threat that the newsman may be called before a court or grand jury, and forced to reveal his sources. Yet certainly there has been continuing disclosure by informants since the beginning of the Republic.

On the other hand, we will never know how much we might have known had not this threat of a press subpoena and ultimate ex-

posure been hanging over the sources of confidential information. It does stand to reason that sources would be more reluctant to come forward and reporters more reluctant to publish, when to do so may subject them to subpoena and an indeterminate jail sentence. A. M. Rosenthal recently wrote:

"It seems entirely plain that the destruction of confidentiality of news sources will have an impact on how much the public knows about every aspect of public affairs. There will simply be fewer and fewer people in Government and out of Government willing to take the risk that the press will be able to protect them. It will not all happen tomorrow, but it will happen as long as this country is ready to say that the price of dissidence is exposure."

To be sure, there are competing interests involved. On the one hand is society's interest in being informed—in learning of crime, corruption or mismanagement. "Enlightened choice by an informed citizenry," wrote Justice Stewart, "is the basic ideal upon which an open society is premised . . . not only does the press enhance personal self-fulfillment by providing the people with the widest possible range of fact and opinion, but it also is an incontestable pre-condition of self-government."

On the other hand, we have the pursuit of truth in the courtroom. It is the duty of every man to give testimony. The Sixth Amendment specifically gives a criminal defendant the right to confront the witnesses against him, and to have compulsory process for obtaining witnesses in his favor. Society, too, has a marked interest in identifying and punishing the violators of its laws. All of this must necessarily be made more difficult by any testimonial privilege.

In addition to the effects on law enforcement and the administration of justice, the public also worries that such a testimonial privilege will become a shield behind which irresponsible journalists may hide. Without revealing sources there is no means of evaluating the accuracy or fairness of news reporting, nor indeed whether the story is not a complete fabrication. One outraged citizen recently wrote to me expressing his doubts about the license a testimonial privilege would give members of the press:

"The public is uninformed about the issues in regard to newsmer's privilege, and it is largely the press' fault. This biased and weighted treatment is as disturbing as the alleged repression which shield legislation purports to correct. . . . How can the public judge the trustworthiness of news gathered by the media from anonymous informants or secret sources? Would not shield legislation encourage irresponsible newsmen to obtain information by theft or bribery? Would not it impede criminal prosecutions of newsmen if they had written about it? What is to prevent a newsman from asserting truth as a defense in a libel suit and then refusing to tell who the source was? If the reporter identifies his source as a member of a group, is not the entire group tainted when he refuses to reveal the name of the informer? Finally, should a privilege so susceptible of abuse be granted a profession which has no code of ethics or internal structure for disciplining its members?"

It is also significant that even some in the press have doubts about the wisdom of such legislation. They feel that, after all, the First Amendment is an unequivocal guarantee of a free press which should not be tampered with. Any legislation must unavoidably have the effect of limiting that guarantee. They look upon this legislation as bad precedent.

Furthermore, there is a serious problem faced. The Justice Department, in hearings before the House earlier this month, warned that legislative protection of the press may well lead to legislation regulation. That is not an idle worry. The same Congress which grants the privilege may condition it on proper conduct. A future Congress, irritated by a critical press, may hold repeal of the privilege as a threat to secure a more compliant press. What is now protective legislation may tomorrow be a hostage to good behavior.

The First Amendment does not contemplate that the press hold its rights at the sufferance of the Congress any more than of the President. The great right and responsibility conferred by the Constitution on the press has its price. And the price is that the press must fight its own battles. It may not come running to Congress as soon as the going gets rough.

The great rights the press now enjoys were not conferred as a gift from Congress. Quite the contrary. They were wrested from a reluctant, and more accurately, an antagonistic government. When the press was licensed, publishers went to jail to win the freedom to publish.

When prior censorship existed, they fought with their bodies and their fortunes.

When seditious libel was a crime, they nonetheless criticized king and parliament, and went to jail for the privilege.

They did the same when the Sedition law was enacted, and when colonial governors and legislators sought to restrict knowledge of their activities to official pronouncements.

Both before and after *Caldwell*, reporters and editors have gone to jail to defend their rights under the First Amendment, regardless of what courts and legislators felt.

This is not the first era when the press has had difficulties. Indeed, despite the warnings expressed by Rosenthal and others, one may well question whether the press is now under greater fire than at other times in our history.

There is a way to resolve this problem which is more difficult than legislation, but far preferable. That is to call upon the press to read its own courageous history. If reporters, editors and publishers read this history, they would not come petitioning to Congress, but would win this point like they won the other elements of their freedom in times past. They would lay their personal freedom on the line like Mr. Caldwell, Mr. Weiler, Mr. Bridge, and others have done.

It is against these general considerations that we must view the need for affirmative legislative action.

To be sure, the press feels threatened and intimidated by a hostile administration. It has begun to wonder whether it is still able to fulfill its role as a conveyor of information to the public. Members of this administration have publicly castigated and threatened press and broadcast media. Proposals have been made to set new standards for the renewal of broadcast licenses which are little more than transparent attempts to censor unfavorable comment. Funds for public broadcasting have been vetoed and public affairs programming, sometimes critical of the administration, has been curtailed. The FBI spends its time trying to catch critical reporters in illegal conduct.

The administration's stance with regard to the newsmen's privilege, while not one of vehement hostility, has nonetheless been one of resistance. In the early months of the administration, there was an unusual rash of subpoenas issued against the news media. It was stated at our prior hearings that CBS and NBC alone received 121 subpoenas in the first 30 months of the Nixon administration.

Amid mounting hostility from the media, Attorney General Mitchell promulgated in 1970 a set of guidelines which remain in effect today. They recognize in principle the value of preserving a free flow of information to the public, and set certain standards for requiring newsmen to reveal confidential information in federal proceedings. Final authorization for the issuance of subpoenas is left with the Attorney General.

The Justice Department has argued that while it does not oppose a qualified statutory privilege in principle, it is unnecessary in view of these Justice Department guidelines.

The objection of the media has been couched not so much in terms of the substantive provisions of the guidelines, as to the Attorney General being the arbiter of press interests. It is tantamount to providing the administration with one more sword to hold over the head of the press.

Forming a backdrop for the charges of government intimidation of the press is the matter of government secrecy. Classification of documents has gone far beyond safeguarding information pertinent to the national defense. It is used to keep from the public information which the administration finds embarrassing or critical. Executive privilege is invoked to prevent Congress from receiving the testimony of administration officials which might prove embarrassing, whether or not it relates to the national defense. Arthur Schlesinger recently said that the "secrecy system has become much less a means by which Government protects national security than a means by which Government safeguards its reputation, dissembles its purposes, buries its mistakes, manipulates its citizens, maximizes its power and corrupts itself."

The growing realization that government acts secretively has brought about almost an unprecedented credibility gap. As A. M. Rosenthal recently wrote:

"We have come to the point, sorrowfully, where we really do not *expect* our Governments to tell the whole truth or even a goodly part of it . . . we have come to the point where we *expect*, if not outright falsehood, then at least obscurity, double-talk, cover-up and euphemistic jargon from American officialdom. We have to remind ourselves that this time a government branch may be telling the whole truth, and how sad that is "

I raise the issue of government secrecy, and the credibility gap which it engenders, to underscore the importance of free press and the necessity for keeping open inside sources of information. With the imposition of classification on documents and restraints on official spokesmen, it becomes doubly critical that the inside informants are not stymied by the threat of subsequent exposure. They are virtually the last resort of a public which is eager to be informed.

We now have pending before the subcommittee seven bills and one joint resolution which provide some type of statutory protection for newsmen. The senators who have sponsored these measures have made the judgment that some form of protection for these sources is necessary. How that protection should be written involves a number of tough, complex issues.

First of all, should the testimonial privilege be qualified or should it be absolute? Or, as a third alternative, should it be absolute in some forums and qualified in others? Those bills which provide a qualified privilege attempt to set standards which must be met by the party seeking the information before the newsman is required to divulge sources or confidential information. While differing in specific qualifications, these bills all attempt to reconcile the interests in the administration of justice with the free flow of information. Those favoring an absolute privilege argue that it is impossible to accommodate the competing interests without critically limiting the newsmen's protection.

The second question is whether the privilege should apply only to federal tribunals or to the states as well. It is undeniable that most of the cases involving newsmen subpoenas have taken place in state courts.

This is especially true since the Attorney General guidelines were issued. On the other hand, the Congress, if it applied the privilege to the states, would in effect be prescribing a rule of evidence for state tribunals, which is a pre-emptive act which the Congress has never done before. Whether this is wise or necessary is open to serious doubt. Even more troublesome is the question of Congress' constitutional authority to legislate such a privilege for the states. Many Senators who are favorable to protective legislation, like myself, might well oppose legislation which tried to cover the states.

A third area addressed by these proposals is the matter of who is a newsman. Who should be entitled to claim the privilege? The First Amendment applies to all citizens, and protects their right to publish information for the public. But the testimonial privilege can, of course, not be available for all. Thus, a serious problem of definition is posed. It must be broad enough to offer protection to those responsible for news reporting, and yet not so broad to shield the occasional writer from his responsibility as a citizen. Any attempt at defining the scope of the privilege is in effect a limitation on the First Amendment. It will confer First Amendment protection on some who deserve it and deny it to others with powerful claims to its mantle. Do we include scholars as well as reporters? The weekly and monthly press as well as the daily? Freelance or only the regularly employed? TV cameramen? Underground papers? The radical press? We will be receiving testimony directly on this issue over the course of these hearings.

A fourth issue is whether the protection should extend only to the identity of confidential sources, or should it include unpublished confidential information. It is interesting to note that the vast majority of state statutes protect only the confidential source and information which could lead to his identity. Other unpublished information is fair game for the courts.

Separate policy considerations underlie these two categories. With the protection of confidential sources, we are interested in preserving the identity of informants. With the protection of unpublished information, it is the integrity of the newsman which is at stake. For some reason, the information was not published. A reporter may have pledged that it would not be. It may have been uncorroborated or unreliable. Or it simply might not have represented the quality of work which he customarily produced. Should such information be available for the courts? It is another question which we must answer.

A fifth issue which must be addressed, whether or not the privilege is to be absolute or qualified, is the procedural mechanism for asserting or divesting the privilege. As is often the case, the effectiveness of the substantive provisions may well depend on the method by which they are employed. Under the typical procedure, the newsman is issued a subpoena and has the choice of either moving to quash the subpoena, or appearing at the proceeding. If he appears at the proceeding and is asked a question relating to confidential material, he may object.

If there is a statutory privilege, he may assert the statute, either in a motion to quash the subpoena or in response to a question he does not wish to answer. Both of these procedures leave the burden on the newsman to show that he is entitled to the protections of the statute.

A better solution from the point of view of a newsman would be to have the burden of showing that he is not entitled to the protection of the statute rest with the party who seeks the information. To accomplish this result, some of the bills specifically provide for a separate proceeding to commence upon the assertion of the privilege. Other bills provide even stronger protection by having the party seeking the information institute a separate proceeding to decide whether the newsman is entitled to the protection of the statute *before* the issuance of a subpoena.

A sixth and final issue which is involved in a newsman's privilege is its applicability to libel and other civil suits. Critics urge that in a libel suit in which the newsman is a defendant and where the defense is based on the truth of what he has written, a newsman should not be allowed to hide behind the privilege and refuse to identify the source or information he was relying upon. To allow this, it is argued, would render ineffective the only protection which citizens have against being libeled, and the only way to make the press accountable. Some of the pending bills thus make exceptions for libel suits.

There are those who argue, on the other hand, that if this exception is made, public officials will file libel suits simply to identify inside sources who make embarrassing disclosures. Whether this is a significant problem is a matter to which we will turn our attention in the forthcoming sessions.

Finally, as a word of warning, I mention the impact which the proposed Federal Rules of Evidence could have on existing protection for newsmen even in the event no federal statute is passed.

The proposed Rules of Evidence which have been transmitted by the Supreme Court to the Congress provide that no testimonial privilege will apply in federal courts unless it is specifically provided for under the rules or by federal statute.

If no federal newsmen's privilege is forthcoming, this means that federal courts will not be able to recognize the testimonial privileges of the states in which they are sitting. For the eighteen states with such laws, newsmen involved in federal proceedings would have even less protection than they now have.

Furthermore, at least one federal circuit has ruled that in a libel suit filed by a public official in federal court, a newsman may still assert a privilege not to reveal his sources despite the *Caldwell* decision. If there were no federal statute, and the new rules went into effect, then presumably even the narrow privilege which federal courts have allowed newsmen in civil suits would no longer apply.

While the approval of the proposed rules by Congress is far from assured, we should take note of this potential problem. I am hopeful some of our witnesses will devote some of their time to it.

Assisting us in these deliberations will be prominent spokesmen from the press and broadcast media, law professors, reporters, columnists, law enforcement agencies and the Congress. I welcome their participation and their ideas. Drafting a newsmen's privilege is not a problem which lends itself to easy solutions.

FALSE ADMINISTRATION ECONOMY SHORTCHANGES NEEDY

Mr. PROXMIRE. Mr. President, late last week the Washington Post indicated that the Agriculture Department was refusing to buy nonfat dried milk for distribution to 2.6 million poor because it was too expensive. Yet there can be little argument that nonfat dried milk is one of the biggest food bargains to be found on grocery shelves today.

The current market price for dried milk is 39 cents a pound. A pound of dried milk will make five quarts—more than one gallon—of the liquid product. More than one gallon of nature's perfect food for 39 cents. And yet the administration refuses to exercise their ability as provided by law to purchase this milk at the market price.

This is another example of the administration's poor approach to the question of national priorities. Instead of continuing to nourish millions of needy Americans at minimal cost, the Federal Government is pinching pennies.

I ask unanimous consent that a copy of the Washington Post editorial be printed in the RECORD.

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

NEEDY FACE NEW CRISIS: MILK

(By J. Y. Smith)

The Agriculture Department has exhausted its supplies of non-fat dried milk for distribution to 2.6 million needy individuals who receive assistance under the surplus food program.

In line with the Nixon administration's expressed determination to bring food prices down, the department is refusing to exercise its option to buy dried milk at the current market price, officials said yesterday.

They said that to buy now would further inflate the price of milk and other dairy products at a time when dairy production is virtually static and demand for dairy products is rising.

The 2.6 million persons who receive surplus food get their supplies from purchases made by the Agriculture Stabilization and Conservation Service. The purpose of the service is to support farm prices by buying at set levels.

The current level set for instant non-fat dried milk is 31.7 cents a pound, according to officials. The current market price for dried milk is 39 cents a pound, they said.

The last purchase of the commodity took place in November for distribution through next month. The amount that the stabilization service bought was less than that requested by the Food and Nutrition Service, which is responsible for distributing it to the needy.

Agriculture Department officials said they hoped that increasing supplies, due largely to seasonal factors, would bring prices down to the basic support level within the next several weeks. They said farmers would then be willing to sell their milk at the basic support level price again.

Officials noted that President Nixon, in a proclamation issued Dec. 30, authorized importing 25 million pounds of dried milk. They said this amount may have helped stabilize prices, but that it had not lowered them.

Thus far, the current shortage in federal stocks has hit only a few areas, according to officials. One of the hardest hit has been Massachusetts, where about 260,000 persons receive dried milk from the government. Agriculture officials here said five carloads of the product have been sent to that state and are due to arrive next week. They said this was a two-week supply for the area.

The District of Columbia and the surrounding jurisdictions in Maryland and Virginia have not been affected, officials say. This is because most of the needy in the area receive food stamps, and because there are ample supplies on hand for the relatively few who receive surplus foods under special programs.

VIETNAM TODAY

Mr. GURNEY. Mr. President, President Nixon through hard-fought negotiations in Paris and through his willingness to use military action to bring the Communists to the Paris negotiations,

has achieved a workable foundation for ending the war in Vietnam. However, much work remains to be done to assure a lasting peace and many issues remain which are of great concern to Americans.

In the coming months we must concentrate our efforts on the safe return of all POW's and obtaining a full accounting of our MIA's. The four-party Joint Armistice Commission, established by the Paris peace, agreement, is responsible for this accounting. Its Subcommission on POW's will determine the mechanics of prisoner release and will remain in operation until a complete investigation of deceased and missing persons is made.

Hanoi has accepted the responsibility of providing the United States with records of combat incidents, prisoner lists and all related information. Our Government believes that Hanoi intends to fulfill this responsibility. Indeed, prisoner return is already underway.

Furthermore, the Department of Defense has established a headquarters for POW and MIA operations in Thailand to serve as a clearinghouse for information and investigative activities. There are elaborate, detailed plans for search teams which will gather data from gravesites, battlegrounds, casualty lists and other sources. Also, we may learn additional information from the returning POW's. We must leave no stone unturned to account for all U.S. POW's and MIA's.

It is also vital that we be diligent in maintaining the cease-fire agreement and in building conditions for a long-term peace in all of Indo-China. However, I take a dim view of one peacekeeping proposal. The administration has indicated it may request Congress to spend taxpayers' money for aid to North Vietnam. This will have very tough sledding here in Congress.

During the 10 years I have served in both the House and the Senate I have consistently opposed foreign aid. Now, with our country facing not only a budget squeeze but a major debate over budget priorities, increased foreign aid makes even less sense. Of even greater significance, North Vietnam started this war and brought upon herself damage by our bombers because she kept the war going for many years after she was offered generous peace terms. Russia and China, who supplied her with guns and ammunition, ought to help her rebuild.

The administration's reasoning for aid to North Vietnam is akin to the carrot and stick argument—the carrot being aid to North Vietnam as a cheaper way to preserve peace than to supply the stick to South Vietnam in the way of continued, substantial military aid to enable them to defend themselves from the North Vietnamese. However, in my opinion, the administration will have to make an exceptionally strong case for a substantial savings before Congress would look favorably upon such a proposal.

Another issue which still confronts us is that of amnesty. I am totally opposed to amnesty for those persons who fled to Canada, Sweden, or elsewhere while millions of their age group were serving in the Armed Forces, and with many in Vietnam making the supreme sacrifice—with their lives.

While much work remains to be done in order to secure a lasting peace, I am hopeful that the President's successful efforts in concluding the Vietnam war, and in reestablishing communications with the great Communist powers will, indeed, bring that peace a step closer.

DRUG ABUSE EPIDEMIC AMONG OUR NATION'S YOUTH

Mr. BAYH. Mr. President, we are facing a problem of crisis proportions in the rapidly expanding abuse of drugs, especially among the young people of this country. During the past 2 years, the Subcommittee To Investigate Juvenile Delinquency, of which I am chairman, has conducted extensive hearings on drug abuse, particularly of amphetamines and barbiturates. We have heard countless witnesses tell of the devastating social and physiological effects of these drugs. We have also learned of the terrible toll that heroin takes every year. The facts are alarming: A New York State commission recently reported that nearly half the high school students and one-fifth of the junior high school students in the public schools are using heroin or non-opiate drugs. A national survey conducted in 1971 found that 6 percent of the Nation's high school age youth have used heroin at least once. This means that 1.5 million young Americans between the ages of 12 and 18 have tried heroin.

Although we Hoosiers have not yet experienced the full impact of the drug abuse epidemic, we are by no means immune. For example, an April, 1972 drug abuse survey conducted at the Indiana Boys' School revealed that of the 408 boys, ages 13 to 18, 31 percent had used amphetamines, 34 percent barbiturates, and 12 percent heroin or cocaine.

I am deeply concerned by these reports—not only as a U.S. Senator, but as the father of a 17-year-old boy. We must find new and better ways to deal with this drug epidemic. We must find ways to help those already involved in the tragic cycle of drug dependency and addiction and to prevent even greater numbers of our young people from establishing destructive patterns of drug use.

During my 2 years as chairman of the Subcommittee To Investigate Juvenile Delinquency, I have conducted an intensive investigation into the diversion and abuse of legitimately produced narcotic and nonnarcotic dangerous drugs.

Not drugs illicitly grown in Turkey and refined in France. Not drugs grown and refined in Asia's Golden Triangle. But dangerous drugs produced legitimately within our own borders.

Additional efforts are necessary to deal with the problems of international drug traffic. But even if the war on heroin should result in total victory, the epidemic of drug abuse which plagues American society would not be vanquished; for the source of supply for growing legions of addicts is a domestic one.

We are experiencing a pandemic of psychotropic drug abuse among young and old alike. Conservative estimates indicate that at least 14 million Americans have abused methamphetamines, amphetamines, barbiturates, and other prescription drugs.

Much of this drug abuse begins with the overproduction and diversion of legitimately produced drugs to illicit markets. Quite often the feared and despised "pusher" is a family's own medicine cabinet. Casual attitudes toward these potentially destructive drugs, coupled with a readily available supply are intimately linked with the current abuse of these drugs.

In the summer of 1971 and again in the winter of 1972, the Juvenile Delinquency Subcommittee held hearings on amphetamine traffic, abuse, and regulation. Subcommittee volumes, "Amphetamine Legislation 1971," and "Diet Pill—Amphetamines—Traffic, Abuse, and Regulation." Concern regarding stricter controls on the production and distribution of amphetamines was not new in the Senate. In October 1970, this body passed an amendment to the Controlled Substances Act which placed amphetamines under schedule II which required production quotas be established to meet only current medical, scientific, research, and industrial needs. However, following intensive lobbying by representatives of the drug industry and bolstered by White House opposition to controls on the production of amphetamines, the Senate-passed amendment was deleted in the conference.

In 1972, after a 3-year struggle, the proponents of stricter controls on the production and distribution of amphetamines could claim a victory of sorts, at least for the many youngsters and others who because of the production cuts will perhaps not be exposed to an overabundance of "speed" in the family medicine chest, at school, or on the street. We were able to persuade the FDA to reschedule amphetamines by administrative order.

The 1972 quota, more than adequate to meet legitimate medical, scientific, research, and industrial needs, limited production to 235 million units. This amounted to an 83-percent reduction from 1971 production levels. Industry had requested 1972 production quotas doubling 1971 production.

Some claim that further reduction is necessary, but in contrast to 4,619 million units of amphetamine and methamphetamine produced in 1969, it is clear that production has been drastically reduced.

What this means is that in 1969 production was probably in excess of legitimate needs by an incredible 4 billion units. Thus in the past few years, while some of us were urging the establishment of production quotas, more than 10 billion amphetamines were produced in excess of legitimate needs.

What happened to those billions of pills? Mr. President, I can tell you what happened to some of them. I have seen those whose minds and lives were destroyed by chronic dependence on these pills. I have seen the bodies of some who diluted these pills in liquids to be shot

into their veins with tragic results—disease, mutilations, disabilities for a lifetime and even deaths.

The number of individuals introduced to these dangerous substances and often to the long road of addiction, because of this gross overproduction is immeasurable, but it is clear that the impact on our society, particularly its youth, has been devastating, if not catastrophic.

The subcommittee has found that, as with the amphetamines, barbiturates are all too easily diverted from legitimate channels of distribution and abused in every strata of society. The subcommittee conducted a total of 7 days of hearings in December 1971, and May and June 1972. In order to obtain firsthand knowledge of the problems of barbiturate abuse and illicit diversion.

I visited a number of barbiturate treatment programs as well as several major barbiturate production plants. In order to obtain additional information on the extent of barbiturate abuse and diversion throughout the country, the subcommittee submitted detailed questionnaires to the attorneys general of every State and territory, to 148 police departments, to 197 district attorneys, and to 160 forensic toxicologists. A discussion of the nature and extent of barbiturate abuse and diversion as well as a detailed analysis of the responses to the national questionnaire can be found in the December 1972 subcommittee report, "Barbiturate Abuse in the United States."

The investigation and the hearings conducted by the subcommittee reveal barbiturate abuse to be both a substantial public health problem and an ever-increasing concern of law enforcement officials. We have found that current Federal controls on the production and distribution of shorter acting barbiturates are not adequate to curb the diversion and abuse of these drugs which are highly dangerous when taken without proper medical supervision.

The tragic effects of barbiturate abuse are generally not known by the American public. The subcommittee found that many people distinguish "hard" drugs, such as heroin and cocaine, from nonnarcotic "soft" drugs which are produced for legitimate medical purposes. This unfortunate distinction has served to perpetuate the belief that "soft" drugs, such as barbiturates, involve little risk to the abuser. As the many subcommittee witnesses, particularly the former barbiturate abusers, made abundantly clear, nothing could be further from the truth.

The actual number of barbiturate abusers in this country is not known, although various estimates have been made. The National Commission on Marihuana and Drug Abuse reported that between 500,000 and 1 million Americans are barbiturate addicts. Surveys of secondary and college students from 1966 to 1971 found that 8 to 15 percent—2 to 4 million young people—have used barbiturates for nonmedical purposes.

Barbiturates have a long history of medical usefulness, but when used improperly are capable of producing psychological dependence, tolerance, and physical dependence. Misuse of barbiturates has led many individuals, both nondependent and dependent, to an overdose or death. Both heroin and barbiturates are strongly addictive. Barbiturate withdrawal is a serious medical emergency and requires hospitalization. It is more dangerous than heroin withdrawal and can be deadly.

Barbiturates are a favorite of polydrug users and are used by abusers of many other dangerous drugs. The particularly dangerous combination of alcohol and barbiturates is, unfortunately, a popular mode of abuse. Abusers of amphetamines—diet pills—often rely on barbiturates to deaden the effect of the stimulants. Too many of these abusers, young and old alike, find themselves in the vicious addictive cycle of the uppers and downers. Barbiturates are used by heroin addicts to modify the euphoria of heroin and as a substitute when heroin is not readily available.

Violent behavior may accompany barbiturate abuse. Unlike opiates, which frequently serve to contain aggressive urges, barbiturates paradoxically often permit the ventilation of aggressive feelings. The heavy abuser is confused, agitated, aggressive, and prone to hostile activities. While the actual number of crimes committed by individuals who abuse barbiturates is unknown, several recent surveys indicate that the number is substantial. One study found that secobarbital, a barbiturate covered by my bill, was overwhelmingly selected by delinquent youths as the drug most likely to enhance aggression.

Recently, NBC News aired a chilling television documentary entitled "Thou Shalt Not Kill." For nearly 35 minutes the viewer witnessed two inmates, incarcerated on death row in the Utah State Prison, excitedly describe the macabre details of their half dozen brutal murders. What may have escaped the typical viewer were the many references to the beer and pills taken by these men during their murderous binge. During a 3-day period they reportedly ingested pentobarbital capsules by the handful approximately every 3 hours. They were described as edgy, grimy, laughing, walking zombies, all consistent with chronic barbiturate intoxication.

Whether the criminal conduct associated with barbiturates is fostered by the drugs themselves or by the need to obtain these drugs, it is clear that increasing barbiturate abuse is intimately related to the growing numbers of violent and nonviolent crimes committed each year.

How do these legitimately manufactured drugs find their way to the illicit market and the abusers?

During the course of the subcommittee investigation of barbiturate abuse, a number of sources for illicit barbiturates were reported. Witnesses at subcommittee hearings, including former barbiturate addicts and law enforcement officials, testified that illicit barbiturates are obtained from friends, street dealers, and unethical physicians and pharmacists; by forged prescriptions; and by pilfering abundantly supplied family medicine cabinets. Thefts from drug manufacturers, wholesalers, pharmacies, and doctors' offices are also a significant source of supply. Additionally, a substantial percentage of barbiturate abusers obtain their drugs legitimately for a recognized medical need and then gradually resort to self-medication for nonmedical reasons or to illicit traffic.

Two factors relating to the availability of barbiturates are widely recognized. First, barbiturates are readily available in most communities in this country. As one 16-year-old boy remarked at subcommittee hearings in December 1971:

"It is less of a hassle to obtain downers (barbiturates) than it is to purchase cigarettes.

Second, although specific estimates differ, there is a consensus among drug abuse experts and law enforcement authorities that a significant proportion of legitimately produced barbiturates find their way into the illicit market.

All available evidence indicates that to date, most illegal barbiturate traffic has involved the diversion and illicit distribution of legitimately produced barbiturates, both in bulk and dosage unit forms. As John Ingersol, Director of the U.S. Bureau of Narcotics and Dangerous Drugs, informed the subcommittee in May 1972:

Unlike the case of all other major drugs of abuse, it appears that *barbiturates are supplied exclusively from what begins as legitimate production* [italic added].

In fact, the Bureau has not found a single working clandestine barbiturate laboratory in the United States. This contrasts sharply with illicit amphetamine and hallucinogen traffic, which in recent years has been supplied at least in part from clandestine laboratories.

During the 92d Congress and again this session, I introduced several legislative proposals to strengthen existing controls over the production and distribution of barbiturates and to facilitate law enforcement efforts to trace barbiturates diverted to the illicit market. S. 983, the "Barbiturate Control Act," would transfer four commonly abused shorter-acting barbiturates from schedule III to schedule II of the Controlled Substances Act of 1970. Under schedule II, these barbiturates would be subject to production quotas, stricter distribution controls, and more stringent import and export regulations. This measure received strong support during the 92d Congress when it was introduced as S. 3539. It was cosponsored by 27 Members of the Senate. Since that time the subcommittee has substantiated even more fully the need for rescheduling. The extent of barbiturate abuse, the high incident of barbiturate diversion, and the clear potential for greater abuse have been documented in the subcommittee report and the many hundreds of pages of testimony recently published as "Barbiturate Abuse 1971–72."

S. 984, the Dangerous Drug Identification Act, would require all manufacturers of solid oral form barbiturates to place identifying marks or symbols on their products. This measure received strong support during the 92d Congress when it was introduced as S. 3538. Currently many of these legitimately produced tab-

lets and capsules are unmarked. The presence of such identification would facilitate law enforcement efforts to determine the original source of the drugs they seize. Additionally, by requiring identification, an exact accounting could be made of the percent of seized capsules and tablets which are of legitimate pharmaceutical origin.

S. 985, the Dangerous Drug Tracer and Law Enforcement Information Act, would require manufacturers to incorporate an inert tracer ingredient in all schedule II and schedule III stimulants and depressants, including the widely abused amphetamines and barbiturates. The presence of these tracers will assist law enforcement agencies in the identification of diverted controlled substances, whether seized in bulk form or in the form of illicitly manufactured or illicitly capsulized pills. This measure, introduced in the 92d Congress as S. 3819, also provides for the Attorney General to conduct a comprehensive study and analysis of the diversion of controlled substances.

We have learned from the experience of major urban areas, especially those on the west coast, that barbiturate abuse and addiction are a natural outgrowth of the abuse of psychedelic drugs and amphetamines and that many heroin addicts and methadone users are abusing or are addicted to barbiturates. Patterns of abuse experienced in California are emerging in cities and towns throughout our country. This "ripple effect" should clearly alert us to the need to control and monitor more adequately the production and distribution of dangerous drugs.

In addition to investigating the abuse of amphetamines and barbiturates in this country, my subcommittee has recently begun looking into reports of increasing diversion of methadone from legitimate channels of distribution. In 1968, there were fewer than 400 patients enrolled in methadone treatment programs nationwide; today there are more than 60,0000 patients in more than 400 programs. Proposed Federal regulations contemplate an even broader proliferation of methadone distribution. This rapid expansion of methadone programs and the quantity of methadone dispensed has simultaneously provided increased opportunity for diversion of methadone into the illicit market. Illegal methadone has several primary origins: careless or unscrupulous physicians; thefts and diversion from methadone programs; and patients enrolled in methadone programs.

Methadone is a narcotic similar to heroin and morphine. Although it is dangerously addictive, methadone has been used successfully to detoxify or maintain heroin addicts. In maintenance programs methadone addiction is substituted for heroin addiction. But the methadone acts to suppress the craving for heroin. The chronic addict can be stabilized and permitted to concentrate on rehabilitative efforts. For some addicts methadone can lead to a productive life in the community.

Addicts use methadone in a variety of ways. Many prefer methadone to heroin because it is readily available, cheaper, and they find that the euphoria is of longer duration and higher quality, particularly if injected intravenously. Others buy illegal methadone to insure against withdrawal when heroin is unavailable; to boost the effects of cocaine and amphetamine and enhance their euphoric effects; to reduce the size of their heroin habits; or to sell to others.

Illicit sales lead to the addiction of others. Polydrug abusers and experimenters are among the regular purchasers of illegal methadone. Methadone programs may create a demand as well as supply. A recent study of 55 heroin addicts terminated from methadone maintenance programs found that 35 percent were abusing illicit methadone along with other drugs, and 8 percent were abusing solely methadone.

It is important to emphasize that methadone alone is not a "cure" for heroin addiction. Any effort to use the drug itself as a simple, inexpensive, large-scale answer to heroin addiction is ill-conceived and will lead to "turnstyle or breadline" treatment. Pressure for hastily developed, large-scale, under financed, under staffed programs must be resisted. The emphasis should be on the quality of services not merely the number of persons processed.

However successful methadone maintenance has been in treating certain addicts, we must not use methadone to smokescreen the effects of drug addiction on our society and the social conditions that spawn drug addiction. Methadone maintenance should not provide a fix for a complex social, political, medical, and psychological problem. Reduction of the incidence of criminal activity associated with heroin addiction is a high priority but it should not be our sole priority. If there is no hope but dope, an addict on methadone will turn to other so-called chemical solutions, most often barbiturates and alcohol. The programs should assist addicts in working toward freedom from methadone, as well as from heroin, so that they can become free and independent persons able to be fully and constructively involved in their community. Equally important, we must deal with the rapidly spreading problem of multiple drug abuse for which methadone is not even a partial answer.

The abuse and diversion of legitimately produced dangerous drugs into channels other than legitimate medical, scientific, and industrial channels should be a primary concern for all citizens. The subcommittee, the Congress, and the public at large are all too familiar with the horrors of drug dependency and addiction and their attendant destructiveness and tragedy. Unless we take action and start conducting an all-out war, not just in Turkey, or France, or in Asia's Golden Triangle, but with regard to the dangerous drugs produced legitimately right here within our own borders, we will never get on top of the problem of drug diversion and abuse.

ADDRESS OF CHARLES H. SILVER: ALFRED E. SMITH MEMORIAL FOUNDATION ANNUAL DINNER

Mr. HUMPHREY. Mr. President, a better education for each of our citizens is a goal which all of us can and do share. We are reminded of this important fact by the address by Mr. Charles H. Silver, consultant to the mayor of New York, at the recent annual dinner of the Alfred E. Smith Memorial Foundation. Mr. Silver's remarks were the keynote speech for that dinner.

He has eloquently reminded us of the vital role which education has played and continues to play in shaping our society. He points out that when it comes to the schooling of our children we cannot afford the least neglect.

The ideals of universal education are fundamental to this Nation. Yet Mr. Silver's address could not be more timely. There seems to be a large and growing number of people who are saying that education—and the money we spend for education—do not solve anything.

I, for one, do not share that view. I believe that a strong commitment on the part of this Nation to a good education for all our children is more important now than it ever has been.

Mr. President, I ask unanimous consent that the text of Mr. Silver's remarks be placed in the RECORD.

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

ADDRESS BY CHARLES H. SILVER

Your Eminence Cardinal Cooke, ladies and gentlemen of the dias, distinguished guests . . . all of you who bring love and loyalty to this great occasion—and give life to the principles of our fellowship.

This is our Twenty-Seventh Annual Dinner. Again we come together at the bidding of our beloved host, his Eminence Terence Cardinal Cooke.

We meet in the presence of many of the makers of history and movers of world events . . . outstanding figures of our age. . . .

Such leaders of thought and lovers of liberty as Vice President Agnew . . . Senator Javits . . . Senator Buckley . . . Congressman Mills . . . Governor Rockefeller . . . Mayor Lindsay . . . Governor Cahill . . . Sargent Schriber . . . Chief Justice Fuld and of course our guest of honor, Secretary-General Waldheim, and every other notable member or friend of the Alfred E. Smith Memorial Foundation on this brilliant dias.

We gather in tribute to Democracy's happy warrior . . . reminded of the moral and spiritual values that shine forth when we "look at the record" of his achievement.

Those values—so fundamental to creative citizenship, and decent human relations—should be instilled in all schools by dedicated teachers in our time—as they were in his.

And I say here and now once again—as I have said on more than one occasion at City Hall, in the State House at Albany and the Capitol in Washington—that our government must not shirk its responsibility for the education of *every* child . . . in *every* school—public and parochial.

We dare not restrict a parent's right to send his sons and daughters to any school of his choice. . . .

We must not slam the door of instruction and opportunity in the face of even a single child.

For it is the child that matters—

Not the label on his school.

It is to our national shame that the separation of church and state is used as a weapon against our children.

Fortunately, we have a man in the White House who recognizes the tragedy looming before us. Addressing the Knights of Colum-

bus concerning the closing of Catholic Schools, he said:

"We must resolve to stop that trend and turn it around. You can count on my support to do that.

"We must see to it that our children are provided with the moral and spiritual and religious values so necessary to a great people. . . "

Those are the words of President Richard M. Nixon.

Another distinguished American has declared:

"Education is the key to our national future, the repository of our civilization the only route to a full realization of our individual and collective potential.

"Let us obey the law—but, with commitment to equal educational opportunity for all."

Those phrases were uttered by the distinguished Senator from South Dakota . . . The Honorable George S. McGovern.

Our vital obligations were further underlined in vivid and dramatic terms by that prince among the servants of God and man, our own cherished and inspired friend, Terence Cardinal Cooke.

He said: "What a tremendous service this great system of parochial schools has rendered our nation.

"How many leaders of this country found in the Catholic School the lesson of citizenship, and brotherhood that enabled them to accomplish great things!

"Although the existence of this vast network of schools has saved the American taxpayer billions upon billions of dollars . . . its greatest contribution is in providing a spirit that goes beyond the material, beyond the secular . . .

"It rings out with the very principles our forefathers enshrined in the Declaration of Independence and in the Constitution."

Let these sentiments be heard—let them be heeded in the highest legislative chambers of our land.

Educational problems have reached crisis proportions here within our own shores. But the principles of brotherhood, and freedom—to which his Eminence refers—leap all borders. They concern all peoples everywhere.

None knows this better than our honored guest, that constant advocate of international enlightenment and understanding in the councils of the world's great powers, the Secretary-General of the United Nations, Kurt Waldheim.

Now, more than ever in this century, the world's great powers seem suddenly poised on the brink of a new mutual understanding bred by the President's missions to China and Russia.

Let us make sure, with the coming of peace, that a share of the billions which went for planes and guns will go to our schools—not some of the schools—but *all* of the schools.

The last best hope of civilization . . . of a secure tomorrow for those we love . . . is being born in the classrooms of today.

This is where we can save humanity from extinction and build the brighter future in which our children will live.

Perhaps the enormity of international developments—and the domestic unrest in each day's terrifying headlines—permit us little opportunity to reflect on the old ideals of character, service and leadership, or to communicate them to the coming generation.

But it is time—and the time is terribly short—to teach all our young people fundamental Americanism, to dramatize the soul-stirring principles of democracy—and to make them live—if democracy is worth keeping alive.

Let's get things clean and decent again . . . let's "look at the record".

Let's make life worth living for every man and woman in our land—for every child in our schools.

We can do it—if we want to—and God knows we need to—

Let's get to work—with budgets big enough . . . with boldness . . . with faith . . .

And remember:

If we do not save the children—we will lose everything.

A nation . . . our great nation . . . that maps pathways to the moon—that performs millions of human miracles for all mankind—our America can surely build a better world for the young people who will inherit ours.

It is up to us—and the schools are the place where we must build the future of mankind. For this is our creed in which we come together each year . . .

To sustain the love of learning—

To restore the flame of faith—

To bear our share of the burden of humanity—

And to carry forward among men the sacred work of God.

PROBLEMS OF RURAL AMERICA

Mr. DOMENICI. Mr. President, I believe many of the citizens of our great country share a common concern over the problems faced by our rural communities. As I have traveled around my State of New Mexico, which has a significant rural population, I have learned of the problems my constituents face with stagnating rural economies, inadequate tax bases, and an inability to provide necessary services to residents.

Just recently, a newspaper article in the Chicago Tribune has pointed out that the State of Illinois also shares this concern regarding its rural communities.

Many of these towns could be revitalized to attract industry to their areas, to provide jobs for their residents and, in the process, increase the economic base of the towns. This would in turn provide an adequate tax base on which to provide city services to residents.

I believe such small town revitalization would indeed benefit our entire Nation. It would give the residents of the communities an opportunity to stay there and make a decent living. So many young people would like to stay in the towns where they were raised, but find they must move to the larger cities if they are going to make a decent living.

By giving residents of rural America an economic opportunity, we would be better able to retard the mass migration into the big cities of our Nation, which are already choked with traffic, smog, and high prices.

Therefore, I speak not only for New Mexico when I speak of the problems of rural America. This is a nationwide concern. I believe all the citizens of this country would benefit if we would develop a strong national policy on rural America.

FUNDS FOR SUPPORT OF MEDICAL EDUCATION

Mr. PELL. Mr. President, that this Nation is faced with a continuing shortage of physicians and other adequately trained medical and health personnel to support these physicians is well known to us.

The current administration has told us that it, too, is aware of the critical need for trained health manpower, and that its proposed budget for fiscal 1974 will provide for more efficient and adequate medical training and health care delivery.

But what would be the real effect and impact of the health funding proposals made by the administration? Dean Robert Ebert, of the Harvard Medical School, in a recent speech commented on the administration budget for health programs. He noted that the budget curtails funds for medical education "at a time when medical schools across the Nation are responding to new demands—the increase in class sizes, the acceptance of more members of minority groups and the growing concern for primary care and communitywide health care delivery."

And Dean Ebert notes that many once-solvent medical schools "are today close to bankruptcy."

Mr. President, I ask unanimous consent that a report of Dean Ebert's remarks from the February 9, 1973, issue of the Harvard Gazette be printed at this point in the RECORD.

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

EBERT CRITICAL OF FEDERAL CUTBACKS

The multiple problems which beset the reorganization of the health care system in the United States to serve all segments of our society, and the growing trend toward the education of more physicians who are concerned with primary medical care, says Dean Ebert of the Medical School, "are ill served by the recently disclosed federal budget."

"The cutbacks in funds or the elimination of monies are not in the best interests of either medical schools or the nation's teaching hospitals."

Dr. Ebert voiced his unhappiness in the funding for fiscal 1973–74 in an address Wednesday evening before the College of Physicians of Philadelphia.

The curtailment of funds for the support of medical education, Dr. Ebert noted, "comes at a time when medical schools across the nation are responding to new demands—the increase in class sizes, the acceptance of more members of minority groups and the growing concern for primary care and community-wide health care delivery.

"The problem of funding," said Dr. Ebert, "is not only in the cutbacks noted in the budget, but in a failure to temper the trend towards the support of medicine generally on a categorical basis."

Pointing to the fact that federal spending on cancer would climb by $91 million to $455 million in 1973–74, and on heart and lung diseases by $28 million to $250 million, Dr. Ebert commented that "both are superb examples of how not to solve the problems of either research or of patient care.

"Surely," he said, "programs which attack only one aspect of the medical care problem and then must be phased out within a few years, do little to alleviate the basic problems.

"Alternatively," Dr. Ebert declared, "one could hope that the universities would be given long-term support to attack all medical education and health problems on a national and planned basis so that the health of all people might be served."

The 'golden era' of the 1950's and most of the 1960's, said Dr. Ebert, "when the National Institutes of Health provided unparalleled support of medical schools, hospitals, for research and for training, has ended. It ended in 1968 with the elimination of the 15 per

cent annual increase. But it had an enormous impact on medical education and medical practice and a profound effect on their financial stability."

But, for the nation's medical schools the financial increases, noted Dr. Ebert, were really no windfalls, "though some believed they were. The facts are," he said "that many medical schools which were solvent in the pre-NIH era, are today close to bankruptcy."

"Within this Troubled Society,'" said Dr. Ebert, "We find the 'troubled physician' who sees the inadequacies of the delivery of medical care and recognizes the need for financial support to these programs in medical education (support for students as well as physicians-in-training) which will ultimately lead to the reorganization of our health care delivery system so that it serves all the people well.

"He recognizes," continued Dr. Ebert, "that others than physicians—economists and planners, experts in management and public policy, as well as members of the various communities served—must be involved in the planning and in the decision-making.

"His one recourse," said Dr. Ebert, "is to become involved! To make sure that medical care delivery is adequate for all! To assure that the financial support necessary to the process of medical education is available, whether through government (federal or state) through industrial support, through philanthropic groups, or through his own financial resources."

INEQUALITY IN WAGE-PRICE CONTROLS

Mr. BAYH. Mr. President, the administration's anti-inflation policy is on the verge of collapse under the weight of rocketing food prices. Every wage earner in America is experiencing a sharp cut in his standard of living, because while wages are controlled under phase III, little else is.

Not only are food prices soaring; in most places housing costs are up, too, as a result of removing rent controls and permitting interest rates to rise. And the President himself concedes that little or no relief is in sight.

Despite this, administration spokesmen have now reaffirmed their intention to adhere to the 5.5-percent wage increase guideline, in the interest of what they call "continuing stabilization." Translated, "continuing stabilization" means that working people will have to continue to be the foot soldiers in whatever anti-inflation fight the administration may try to wage—while the captains and generals of industry and banking stay back at the officers club and enjoy record profits.

Inadequate as the 5.5-percent guideline is for wage increases generally, many workers have not been allowed even that increase in their effort to keep abreast of inflation. In my own State, to cite only one example that has recently come to my attention, Iron Workers Local No. 22 in Indianapolis successfully negotiated a 7.5-percent wage increase to take effect in November of last year. But the Construction Industry Stabilization Committee disallowed it altogether last year, and in January of this year granted an increase of less than 1.1 percent. Yet we know that other groups of wage earners have been granted more realistic increases during the same period. And what makes this ruling even more questionable is that iron workers in other cities in Indiana—some enjoying a lower cost of living than Indianapolis—are paid at a substantially higher rate than members of local No. 22.

It is not my intention here, Mr. President, to argue the merits of any particular wage adjustment. I do, however, want to call the Senate's attention to the sharp inequities that exist in this area of the administration's economic stabilization efforts.

In the next few weeks we will have before us President Nixon's request for extension of his authority to proceed under phase III. Before I will support this Presidential request, I must be assured that a greater degree of protection will be provided to see that all groups of laborers are treated equally and equitably and that working people and pensioners are not going to be victimized while everyone else enjoys the benefits.

Every American wants inflation controlled. Most Americans are prepared to make sacrifices to achieve that goal. But no one wants to be singled out to make the lion's share of sacrifices, and that is what is happening today.

We must not let it continue.

RULES OF COMMITTEE ON FOREIGN RELATIONS

Mr. AIKEN. Mr. President, in accordance with the provisions of section 133 B of the Legislative Reorganization Act of 1946, as amended, I submit the rules adopted by the Committee on Foreign Relations on February 27 and ask unanimous consent that they be printed in the RECORD.

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

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

COMMITTEE AND SUBCOMMITTEE MEETINGS

1. The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

2. Six Members shall constitute a quorum for the purpose of transacting Committee business.

3. Proxy voting will be permitted on all matters, except that no measure or recommendation shall be reported unless a majority of the Committee were actually present.

4. The Chairman of the Committee on Foreign Relations, or the Chairman of any Subcommittee thereof, is authorized to fix the number of Members who shall constitute a quorum for the purpose of taking testimony.

5. Except when funds have been specifically made available by the Senate for a Subcommittee purpose, no Subcommittee of the Committee on Foreign Relations shall hold hearings involving reporting expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee.

6. Unless otherwise authorized by law or Senate resolution, Subcommittees shall be appointed each Congress by the Chairman. They shall be of three general types: consultative, "study" or "oversight," and ad hoc.

Consultative subcommittees are created primarily for purposes of consultation and not for the consideration of legislation.

Study or Oversight subcommittees are created to deal with specific problem areas which may or may not require legislative action originating with the Committee.

Ad hoc subcommittees are created to act on behalf of the full Committee on specific legislation or treaties.

COMMITTEE TRAVEL

No Member of the Committee on Foreign Relations or staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the ranking minority Member. Requests for authorization of such travel shall state the purpose and when completed, a full report shall be filed with the Committee.

NOMINATIONS

1. Unless otherwise directed by the Chairman, the Committee on Foreign Relations shall not consider any nomination until six days after it has been formally submitted to the Senate.

2. Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

3. No nomination shall be reported to the Senate unless the nominee has been accorded security clearance on the basis of a full field investigation by the Federal Bureau of Investigation, and, in appropriate cases, has filed a confidential financial statement with the Committee.

TRANSCRIPTS

1. The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and Subcommittee (except consultative subcommittees) meetings and such transcripts shall remain in the custody of the full Committee, unless a majority of the Committee decides otherwise.

WITNESSES

1. The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

2. If the Chairman so determines, the oral presentation of witnesses shall be limited to ten minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

TRANSCRIPT REGULATIONS

1. Maintenance and security of classified transcripts.

a. The Chief Clerk of the Committee shall have responsibility for the maintenance and security of the classified transcripts.

b. A record shall be maintained of each use of the classified transcripts.

c. Classified transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons. They must never be left unattended and must be returned to the Chief Clerk promptly when no longer needed.

d. Classified transcripts shall be permitted to leave the Committee offices only in the possession of authorized persons. Delivery and return shall be made only by authorized persons. They shall not be permitted to leave the city or the country, unless adequate assurances are made to the Chairman for their security.

e. Transcripts classified secret or higher shall not be permitted to leave the Committee offices.

f. Extreme care should be exercised to avoid taking notes or quotes from classified transcripts. Their contents must not be divulged to any unauthorized person.

2. Persons authorized to use classified transcripts.

a. Members and staff of the Committee, in the Committee rooms, or, by permission of the Chairman, in their offices.

b. Senators not members of the Committee, in the Committee's Capitol offices, by permission of the Chairman.

c. Members of the executive departments in the departments, or, in the Committee's Capitol office, by permission of the Chairman.

3. Declassification of executive transcripts and other executive records.

Executive transcripts and other executive records of the Committee shall be released to the National Archives and Records Service for unclassified use in accordance with the policies of that Agency: *Provided*, That no such transcripts or other executive records shall be declassified within a period of 12 years except by majority vote of the Committee and with the permission of surviving members of the Committee at the time such transcripts or records were made and with the permission of the Executive Department, if any, concerned; and *Provided further*, That after 12 years from the date such transcripts or records were made, they shall be declassified unless the Committee by majority vote shall decide otherwise.

REGULATIONS FOR THE USE OF CLASSIFIED MATERIAL (OTHER THAN TRANSCRIPTS)

Receipt and distribution of classified material.

1. All classified material received or originated by the Committee shall be keyed in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeepng.

2. Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

3. Distribution of classified material among offices shall be by Committee Members or staff only. All classified material sent to Members' offices, and that distributed wthin the working offices of the Committee, shall be returned to Room 4229, Dirksen Senate Office Building. No classified material is to be removed from the offices of the Members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

4. Material classified "Top Secret," after being indexed and numbered, shall be sent to the Committee's Capitol offices for use by the Members and staff in those offices only.

5. The Chief of Staff is authorized to make such staff regulations as may be necessary to carry out the provisions of these regulations.

STAFF REGULATIONS

The Committee recommends that the following concepts serve to guide the staff in its activities:

1. The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Chief of Staff.

2. Any Member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

3. The staff's—as, indeed, the Committee's—primary responsibility is with respect to bills, resolutions, treaties, and nominations.

4. The staff and the Committee also have a responsibility under Section 136 of the Legislative Reorganization Act which provides that ". . . each standing committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee." In the case of foreign relations, there is an additional responsibility deriving from the advice and consent clause of the Constitution. By the same token, there are limitations deriving from the President's special constitutional position in regard to foreign relations.

5. In addition to carrying out assignments from the Committee and its individual Members, the staff should feel free to originate suggestions for Committee or Subcommittee consideration, making it clear in every case that the decision lies with the Committee or Subcommittee concerned. The staff should also be free to make suggestions to individual Members regarding matters of special interest to such Members.

It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

6. In carrying out the responsibilities in paragraph 5, the staff should bear in mind the workload of Senators and attempt not to deal in trivia but to limit itself to broad questions of basic policy, or specific matters which point up a question of basic policy.

7. The staff should pay due regard to the constitutional separation of powers between the Senate and the executive branch. It should, therefore, try to help the Committee bring to bear an independent, objective, judgment of proposals to the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff must avoid impinging upon the constitutional prerogatives of the executive branch in the day-to-day conduct of foreign affairs.

8. In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by Members of the Committee and of the Senate. The staff must bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

9. The staff should regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria are suggested:

a. The staff must be completely nonpartisan and responsible only to the Committee. Staff members should be hired and fired by the Committee solely on the basis of merit and without regard to political considerations.

b. Members of the staff must not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group.

c. Members of the staff must not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Chief of Staff, or in his case, from the Chairman and the ranking minority Member. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action.

d. The staff must in no circumstances discuss with anyone the proceedings of the Committee in executive session or conversations with individual Senators without specific advance permission from the Committee or the Senator concerned.

PROVISIONS OF LEGISLATIVE REORGANIZATION ACT

In addition to the foregoing, the Committee on Foreign Relations is governed by the standing rules of the Senate and the rules and procedures set forth in the Legislative Reorganization Act of 1946, as amended.

SENATOR CLARK EXPOSES DANGER IN NIXON FARM PROPOSAL

Mr. HUMPHREY. Mr. President, I want to say a few things about my colleague, the new Senator from Iowa, Mr. CLARK. Senator CLARK made an opening statement before the Senate Agriculture Committee hearings on general farm legislation that simply and succinctly summed up the effects the Nixon administration's farm proposals would have on rural America. Senator CLARK said that if farm production controls and subsidies were ended, then the majority of Iowa farmers would be phased off their land. I would like to say that the points Senator CLARK made about Iowa farmers who own small or medium sized farms applied to farmers in every State, including those in Minnesota.

Mr. President, I would like to request unanimous consent that Senator CLARK's statement be printed at this point in the RECORD.

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

TESTIMONY FOR SENATE AGRICULTURE COMMITTEE, FEBRUARY 27, 1973

Mr. Chairman, I commend you for holding these hearings on general farm legislation. They take on an added importance in view of the President's recent proposals asking Congress to end farm subsidies and production controls.

These hearings will provide the committee with an excellent opportunity to hear firsthand from farmers what changes they would like to see in the existing programs and whether they support the President's proposals.

Frankly, I am alarmed at many of the President's proposals and I fear that they will only lead to the destruction of the small and medium-sized farm. I base this opinion partly on information supplied the Senate Agriculture Committee by Dr. Don Paarlberg, the economics director.

In a recently received report, Dr. Paarlberg examined what would happen if production controls and price supports were eliminated. The Paarlberg report said, and I quote:

"Complete removal of all production restraints and all price support activities in 1974 might cause substantial increases in production, sharp drops in farm product prices and even greater drops in net farm incomes in the immediate years after removal of controls. The result would be an increased economic squeeze on most farmers, with possible failure or withdrawal of many marginal farms."

Iowa, my home state has more than 100,000 farms that are what I would term, small and medium-size. These farms are between 100 to 500 acres. Now it seems to me that the President's proposals would be aimed at moving these farmers off their land. They would be the ones whose net farm income would drop and whose land holdings would be incorporated into so-called "more efficient operations," or as the report says, "many marginal farm units would go out of production with some of their resources absorbed

or consolidated into economically stronger units."

Additionally, the Paarlberg Report says that, and again I quote:

"In the first year of no program, corn prices would probably drop below $1.00 per bushel."

For as long as I can remember, dollar corn has been very unpopular in Iowa because it has meant economic ruin.

I strongly support curtailing economic spending and trimming the fat from subsidy programs. But, I do not believe that many people would be able to live on the land if these program changes were put into effect. If the programs need changes and if there is to be a dramatic shift in government philosophy toward farmers, let this committee and the Congress decide what needs to be done.

NOW IS THE TIME FOR ACTION ON THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, Tuesday, the Senate Foreign Relations Committee ordered the Genocide Convention reported to the Senate. The treaty will next be placed on the Executive Calendar and the Senate will once again have the opportunity to consider this important international agreement.

There is not a single proposal before the Senate that has been before the Senate as long as the Genocide Convention. This is a sad and disturbing fact. The U.S. delegation to the United Nations was among the first to sign this document which was approved by the General Assembly of that body on December 9, 1948. Six months later President Truman transmitted the convention to the Senate and here it has remained for almost 25 years.

As Chief Justice Earl Warren told an American audience in 1968:

> We as a nation should have been the first to ratify the genocide convention. . . . Instead, we may well be near the last.

Seventy-five other nations, including most of our NATO and SEATO allies, have already ratified this treaty which makes mass murder the subject of an international agreement. It is a sad irony that the United States, which has so long championed the cause of human rights, has refused to approve this treaty which guarantees the most basic of human rights: The right to life itself.

Mr. President, I urge that the Senate delay no longer in considering this document. For a quarter of a century the world has wondered at our refusal even to bring the treaty up for a vote. This is the year in which American involvement in the long and tortuous war in Southeast Asia has at last been brought to an end. This is a good opportunity to ratify this treaty to bring the crime of genocide to its end as well.

A STANDARD OF EXCELLENCE

Mr. GURNEY. Mr. President, the Committee on the Judiciary currently has before it the nomination of L. Patrick Gray III, for the directorship of the Federal Bureau of Investigation.

I know Mr. Gray to be a man of excellence, well-suited to direct an organization of unparalleled performance. As Acting Director of the Federal Bureau of Investigation, Mr. Gray has demonstrated his ability to continue this organization's mission in accord with its well-established standards. While maintaining the Federal Bureau of Investigation's standard of excellence, Mr. Gray has not hesitated to institute new procedures to meet the ever-changing demands which confront law enforcement.

Mr. Gray has indicated, in various public addresses, his awareness of the need for change in order to meet the current challenges of the Federal Bureau of Investigation as well as the necessity for continuity in order to preserve its fundamental established values.

For the enlightenment of Senators, I ask unanimous consent to have printed in the RECORD, immediately following my remarks, a speech by Mr. Gray on this subect to the Executives' Club of Chicago, delivered on October 13, 1972.

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

A STANDARD OF EXCELLENCE

From time to time I hear that the Acting Director of the FBI is making far too many speeches. As is often the case, the verity . . . as well as the applicability of such remarks . . . depends on a point of view.

I think it was Gerald M. Loeb who once said, "One man's speculation is another man's investment." It depends again on a point of view.

My point of view is that the FBI belongs to all the people of the United States, serves all the people of the United States, and that all the people of the United States are entitled to hear about the FBI—if they want to.

When they want to hear about the FBI, and when they extend an invitation, they should hear from me, if possible. But, it is not always possible for me to respond.

Neither is it possible that I, nor any other member of the FBI, is always in a position to respond to each and every question put to us in a public forum.

Our duties in behalf of the people of the United States—within certain perimeters of our jurisdiction—are not open for public discussion in the public forum. And if I began to discuss our operations in these areas, cries for my scalp would be heard throughout the country . . . and rightly so.

Despite the very deep and very real interest of our fellow citizens in the work of the men and women of the FBI . . . and their right and need to know . . . there are just some areas of that work which even they do not want to see opened up for public discussion. There also are laws of the United States which prohibit public discussion of our work in these areas.

The big question for today, then, is what I can serve up in the way of a talk that might be of some interest to you who have been kind enough to ask me to be here as your guest. Actually, your kind invitation honors the dedicated men and women of the FBI, and I bring to you their warm greetings and best wishes.

You are not really interested, I know, in how many speeches the Acting Director of the FBI has been making, but you may want to know at first hand a little bit about what I have been doing for the past 23 weeks in one of the most important positions of our Government. At least you asked me to speak to you, and you must have extended the invitation because you are interested in the FBI—not necessarily in the Acting Director of the FBI.

Thomas Jefferson said of Benjamin Franklin,

"I succeed him; no one could replace him."

I could and do make the same remark about John Edgar Hoover. I follow him in a position of great responsibility to our people and to our Nation. He . . . together with the men and women of the FBI who served with him during the years 1924 to 1972 . . . created and built a magnificent organization devoted to the service of our country.

In my judgment, the prime characteristic of the FBI is a sustained and high achievement of excellence in the performance of duty throughout these years. I have been privileged . . . as no outsider has ever before been so privileged . . . to *see* at first hand this performance . . . and to *direct* this performance . . . and to *question* this performance . . . and to *evaluate* this performance.

My entry into the FBI was not that of some sparkle-eyed novice just eager and waiting to absorb the litany of the elect. But I did enter with the high degree of respect—bordering on awe—that the majority of Americans have always had for the men and women of the FBI.

And as the Bureau began to turn its professional scrutiny inward—objectively and faithfully—in response to a never-ending stream of questions from the newly minted Acting Director, that respect and that awe were richly justified.

There were times in the first six to eight weeks when I believed that one or more of the Assistant Directors would have rejoiced at my instant removal . . . when I was ready to believe that some of them were convinced that my arrival on the scene was just a bad dream . . . and when I was positive that at least a few of them were frustrated to the ultimate degree by the novice who never seemed to run out of questions, who demanded more responses when all the traditional responses had already been served up.

It is a rare tribute to Mr. Hoover . . . and to the men and women who built the FBI with him . . . for me to be able to stand before you today and tell you that his magnificent organization responded with a zest, an enthusiasm, with an all-consuming fidelity to perfection that is unparalleled in my experience.

As the days passed, the position papers and study papers that were developed achieved a degree of excellence which seemed to challenge me, my own personal staff and the senior executives of the FBI to find a point . . . a topic . . . or an area that should have been covered and was not. I could sense the pride and the spirit of achievement reflected in these works, just as it was reflected in my personal contacts with the senior executives of the FBI and with the men and women assigned to duty both at Headquarters and in the field divisions of the FBI.

Those first six to eight weeks formed the period of transition and they also formed the most intensive educational experience I have ever encountered. The 18-hour days were never drudgery, never just exhausting: they were stimulating and filled with new and different challenges.

I was moving on a fast, dry track, and I knew it. And I also knew that the top executives of the FBI, moving on that same track with me, were interested in helping me to succeed, *provided* that I could demonstrate to *them* that I possessed first the spirit . . . and then the managerial, administrative, and leadership qualities so necessary to take up the gauntlet laid down by Mr. Hoover.

The race is long and the track is still fast . . . judgment on my performance must be reserved . . . but I have no hesitation in speaking to you about some of the highlights of these 23 weeks just past.

As you know, a new man at the top can signal any number of radical changes . . . or it can mean a continuation of the same policies and procedures, with or without careful examination and evaluation. It can mean iconoclasm for its own sake—or smug complacency.

But at the outset I resolved to follow the

course of continuing the same policies and procedures, with a careful examination and evaluation being conducted simultaneously—continuity and change. It is axiomatic that the new boy on campus does not move in with the broad brush of change *if* the organization has been delivering the product coupled with a handsome return on equity. This was the situation in the FBI.

This careful examination and evaluation produced the position papers and study papers that I referred to earlier. And it is true that some changes in our policies and procedures have occurred. We believe that we are *improving* the return on the equity that each American citizen has in the FBI.

Some of these changes have been substantive in nature and you are aware of some that have been rather well publicized. For example, the FBI now accepts applications from women who aspire to become Special Agents. Two young ladies are now in a new Agents' class that is scheduled to complete the course of instruction on October 25th, and four more ladies are in the new Agents' class which began the course of instruction on September 11th.

We are aware that this policy determination . . . which incidentally also happens to be in accord with the law of the land . . . has produced some resentment in certain quarters, and particularly among those of our citizens who cannot . . . for reasons of their own choosing . . . accept the fact that a woman can be a Special Agent of the FBI.

There may be resentment within the FBI too. I don't know if there is or not. If there is, this would not excite me, upset me, or make me nervous. I do not expect that each decision I make will be greeted with joyous enthusiasm and be warmly received by each man and woman of the FBI. If this were to be the case, they would not be the strong-willed and dedicated people I believe them to be.

I *do* know that the men and women of the FBI realize that I have the ultimate responsibility to make the tough policy decisions and that they have the ultimate responsibility to implement them. I also know that some young women are going to complete our requirements and come to the field divisions of the FBI for duty as Special Agents. There the traditional leadership of the FBI will take hold, and these young women will be helped to become valued members of our team and respected members of the FBI family.

Occasionally I have heard that the new Acting Director is determined to convert the FBI to the communal life style of dress—that badges are "out" and love beads "in"—and that discipline is one of the old archaic concepts that has been relegated to the archives.

I know, and every man and woman in the FBI knows, that the FBI would self-destruct without discipline. A law enforcement agency of any kind or size cannot function at all . . . let alone function in the public interest in accordance with law . . . without a firm, fair, and swift disciplinary system. We who serve our fellow citizens in the law enforcement profession recognize and accept this very fundamental fact of life.

It is true that my approach may be different simply because I am a different man. I am Pat Gray. I am not J. Edgar Hoover. At the same time, I have the gut feeling that Mr. Hoover held the same fundamental beliefs that I hold regarding the utilization and the application of the disciplinary process.

After 23 weeks I do not observe the men and women of the FBI going "mod" with the medallions, the beads, the frayed blue jeans, and the sandals, even though it is true that the traditional FBI standards of attire have been somewhat modified.

But remember, the image of the FBI held by the American public was created by the men and women of the FBI and not by some paper directive issuing from FBI Headquarters in Washington. These same men and women have enough sense of pride, enough elan, and enough of a flair for the chic . . . in the cases of our women . . . to continue to garb and groom themselves in a presentable manner. Colored shirts, hair worn a bit longer, and mustaches are not going to wipe out the fierce pride that exists within the hearts and minds of the men and women of the FBI.

From the inception, the topmost priorities among my avenues of inquiry were the areas of organized crime, general crime, espionage and subversion, drug abuse, and our grant of jurisdictional authority from the Congress and the President of the United States by Federal statute and Executive Order. *They still are, and on a daily basis.*

In each . . . with the exception of the area of our jurisdictional authority . . . I have tried to apply some resource tests and some objectives tests. First, what is the *threat,* then what are the *resources* available, and, finally, what should be our *objectives*? These are the questions that have been asked, analyzed, and answered over and over again, on an almost daily basis, as the senior executives of the FBI and I conduct what really amounts to a review in depth of each and every one of our policies and procedures. Does it work? If not, why not? And if it does work—then, so be it, and full speed ahead!

As to our jurisdictional authority, the obvious and only question is: Do we have the jurisdictional authority to investigate? In short, is this a case within the jurisdiction conferred upon the FBI? Do we have a responsibility to move in? Are we commanded by Federal law or Executive Order to act? If not, we will not act . . . we will not move in . . . and we will not investigate!

Since jurisdiction is really our ground zero, here is where it all starts and where it all comes together. And as you would expect, here is the fertile area for those who study the operations of the FBI. In some cases there is room for difference of opinion as to whether or not FBI jurisdiction is present. Whenever in doubt, guidance is requested from the Department of Justice. This is standard operating procedure, and in some cases the applicable law requires that we obtain the approval of the Department before we begin an investigation.

In any review of the work of the FBI, it helps to know exactly what we are and what we are not. We are the investigative arm of the Department of Justice. We are not policy makers. We are not legislators. We do not make the laws of the United States—but we do have a statutory responsibility to investigate violations of the laws of the United States. Even though we investigate violations of the laws of the United States—we do not prosecute the alleged violators. We do submit reports of our findings during the conduct of an investigation to attorneys of the Department of Justice—but we do not submit any recommendations as to the disposition of the particular case involved in the investigation. That is the job of others in the Executive Branch—in whose backup we provide some of the brain, and lots of brawn—and forgive the inelegance—endless amounts of just plain sweat.

So, in just a few more words, how best to recapitulate what I have been attempting to convey to you today?

The first thing to be said—it was no graven image or historical mausoleum whose leadership I inherited 23 weeks ago. It was a working organization. And it is going to *remain* a working organization.

More than that—it was a human institution, thousands of arms and legs and brains and hearts, all of them driven by a burning dedication to professionalism and by an ideal of devotion to the public service. And it is going to *remain* a servant to this Republic.

The image will take on the nuance of new times and new mores. The style will change, as of course it must. But, my friends, the *substance* will not change, and the continuity of mission will remain unbroken.

I pledge that to you. I made the same pledge to the President, 23 weeks ago. Most important of all—I pledge it to the men and women who are the FBI.

A FULL EMPLOYMENT STRATEGY FOR THE NATION: THE PUBLIC SERVICE EMPLOYMENT ACT OF 1973—S. 793

Mr. CRANSTON. Mr. President, on February 7, I introduced S. 793, the "Public Service Employment Act of 1973." Joining with me as original cosponsors of this bill are the Senators from North Dakota (Mr. BURDICK), Michigan (Mr. HART), Indiana (Mr. HARTKE), Iowa (Mr. HUGHES), Minnesota (Mr. HUMPHREY), Massachusetts (Mr. KENNEDY), South Dakota (Mr. McGOVERN), Minnesota (Mr. MONDALE), Maine (Mr. MUSKIE), Rhode Island (Mr. PELL), West Virginia (Mr. RANDOLPH), and New Jersey (Mr. WILLIAMS). I am pleased that the distinguished Senator from Alaska (Mr. GRAVEL), has also asked to be added as a cosponsor of S. 793.

PROVISIONS OF THE BILL

S. 793 would provide funds for more than 1.15 million jobs for unemployed and underemployed Americans.

It would authorize $3 billion this fiscal year, $7 billion in fiscal year 1974, and $10 billion in succeeding fiscal years for a continuing program of public service employment. The amount authorized but unappropriated for fiscal year 1973 would remain authorized in fiscal year 1974, in addition to the $7 billion.

The legislation I am introducing would operate in much the same way as the Emergency Employment Act—with funds administered largely through State and appropriate local government prime sponsors. It is similar in its provisions to the program which the Senate passed in September 1970, as part of the Employment and Training Opportunities Act of 1970.

Unlike the Emergency Employment Act, S. 793 would require that appropriate units of local government seeking funds under the program form broadly representative public service employment councils, representing Government, business, labor, veterans, and unemployed and underemployed persons and poverty organizations; and school and public service groups, to help survey the needs for both jobs and services to help plan the program.

The council would inventory public service and economic development needs, establish priorities, and design programs. Mayors, county executives, and other eligible sponsors would file the applications for Federal funds to operate programs. Funding—90 percent Federal—would go through appropriate governmental units unless they did not apply, applied and did not qualify, or were not serving adequately the needs of the disadvantaged in a particular community.

In addition, public service job grants

could be made to such organizations as community action agencies, model cities programs, community development corporations, United Fund agencies, and other private organizations when the appropriate unit of Government was not serving the area of the poverty community in an adequate manner or if the above-mentioned organizations were approved initially by the governmental units.

In areas of particularly high unemployment where a rate equal to or in excess of 6 percent occurs for 3 consecutive months, my bill will authorize funds for a new special employment and economic development program—SEED—wherein public service employment would be coordinated with existing economic development programs in order to help these areas become more economically self-sufficient. A prime example of this would be the two-pronged effort that could be made in behalf of residents of urban and rural low-income areas upon enactment of this legislation.

In effect, section 6 of the Public Service Employment Act would bolster programs supported through title VII of the Economic Opportunity Act Extension of 1972, as enacted in the 92d Congress. Title VII of the EOA, the result of an amendment offered by Senators KENNEDY, JAVITS, and myself—section 17 of S. 3010, now Public Law 92-424—provided for community economic development, consolidating the prior title III-A—rural loan, and title I-D—special impact programs. The section 6 provisions of the Public Service Employment Act would make more meaningful our current attempts to improve the quality of economic and social participation in community life of residents of low-income areas.

Testimony before the Senate Labor and Public Welfare Committee's Subcommittee on Employment, Manpower and Poverty regarding title VII of the EOA Extension Act of 1972 during the June 11, 1971, hearings emphasized that the significant problems of developing economically depressed areas are not resolved by income transfer and social services programs alone. Means must be found to bring purposeful economic development to people where they live. For those who have been ignored, frustrated, and relegated to the most menial jobs in our society, there has to be a reason to care about their community. Jobs are an integral part of purposeful economic development—and decent jobs are an integral part of purposeful human development—not "make-work" jobs. Jobs are what this bill is all about—and is the particular emphasis of section 6 of S. 793.

The SEED program— in section 6 of this bill—is based upon the section 6 program in the Emergency Employment Act that provides funds for areas with 6 percent or higher unemployment even after the national EEA program ends. For the month of February of this year, the Department of Labor has identified nearly 900 areas with substantial or persistent unemployment rates of at least 6 percent throughout the Nation. Under PSE, up to 25 percent of appropriations would be available for a concentrated attack on the problem and the funds could be expended for economic development as well as direct PSE job creation.

Similar to the Emergency Employment Act, my legislation would stress the special need of Vietnam era veterans for jobs. But my bill would go further by providing a priority for such veterans for public service employment—PSE—jobs. In addition, my bill requires that those on welfare, aerospace workers, older persons, the poor, persons of limited English-speaking ability, and migrants be given a fair share of the available jobs. It further requires that local PSE programs work with local welfare agencies to insure that welfare recipients have ready access to the jobs provided under this legislation.

Public service employment is not the whole answer to the crisis in joblessness that the Nation faces. But the bill represents a start—a necessary start when one reflects on the numbers game adroitly played by the current administration.

In February of this year, the Department of Labor announced that—

> Over the past year . . . total unemployment has declined by nearly 800,000.

What needs to be pointed out in conjunction with the statement is the simple fact that nearly 200,000 jobs were provided by the Emergency Employment Act of 1971—a bill whose conception was bitterly opposed by the administration; a bill whose implementation was lavishly praised by the same administration; and a bill whose expiration is anxiously awaited by the very same administration.

Furthermore, that same administration announced late last year that the unemployment rate for the month of November was 5.2 percent. In actual seasonally adjusted figures this meant that 4,498,000 American people were out of work. With some fanfare, that same administration announced that during the month of December, the unemployment rate had declined to 5.1 percent. In actual fact, 4,487,000 Americans were still out of work. In February of this year, that same administration announced that the unemployment rate again had gone down. This time it was 5 percent. But the seasonally adjusted figures showed 4,366,000 Americans unemployed. In short, while the administration points to successful efforts in terms of reducing the unemployment rate, the actual number of American citizens out of work remains well over 4 million people.

At this juncture, I would like to point out that "over 4 million people" approximates the entire civilian labor force of Iowa, Kansas, Missouri, and Nebraska being out of work at the same time. Or if one could imagine the approximate total civilian labor force of Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, Alaska, Idaho, Oregon, and Washington being unemployed at the same time, then one could begin to appreciate just what is meant when the current administration says that "things are looking brighter."

It should also be pointed out that the civilian labor force increases by over 2 million persons a year. At such a rate of increase, it will not be to long before even a 4 percent unemployment rate—deemed acceptable by the current administration—will translate to over 4 million Americans out of work each year.

The Bureau of Labor Statistics reports that in addition to the 4,366,000 unemployed Americans mentioned above, there are another 800,000 discouraged workers. These are men and women who are not seeking or who are no longer seeking employment, because they despair of finding it. This represents a real unemployment total of over 5 million Americans. Add to that the 13.7 million Americans working for substandard wages, and we have the enormous dimension of the need—nearly 19 million decent jobs. This lack of employment opportunities affects almost 70 million Americans, taking into account the 3.6 persons in an average family. One million, one hundred and fifty thousand jobs provided by this bill would hardly be an overreaction to such a great need. On the contrary, a continuing program of public service jobs as outlined in my bill would do much to prevent the continuation of these destructively high levels of wasted humanity.

For individuals, however, every effort would be made to move them from federally subsidized jobs into permanent jobs in the civil service or appropriate employment in the private sector. Normal turnover in public payroll jobs should make it possible for most of those hired on public payrolls under this act to move on to unsubsidized jobs. For others, the expansion of economic activities in their communities, in part stimulated by this legislation, will afford new job opportunities in the private sector.

THE PROBLEM

With over 4.3 million Americans unemployed, and the estimated 13.7 million persons who are underemployed—according to the Cost of Living Council—the need for jobs in public service cannot be doubted.

Mr. President, the time has come for this Nation to face up to its responsibility to provide opportunity for work at decent wages for all our citizens.

This has been our stated goal for decades. Franklin Roosevelt made it the keystone of his economic bill of rights, proposed in those hopeful days when World War II was drawing to a close.

We have not fulfilled that promise. And the price we pay is the national humiliation, and the individual and family tragedy of American poverty. Think of it: The most prosperous nation the world has ever known must face the fact that poverty is its most pressing and persistent domestic problem. In human terms this is a problem that overshadows the greatness of our economic accomplishment of a trillion dollar gross national product.

We assert that our society is just and democratic. We want it to be nothing less. Yet the social fabric of our innercities and rural backlands is torn apart by desperate human need in the midst of extraordinary private affluence. The disastrous consequences of unemployment touch the lives of each of us.

PARTICULARLY NEEDY GROUPS

Many aerospace engineers, who have built their lives upon service to our Nation in space and defense have exhausted their unemployment insurance, and find themselves on welfare—where that is available—with their children hungry, their pride gone, and their families collapsing.

Veterans who have risked their very lives in the Nation's service are unable to find jobs upon returning to this great generous Nation. What a cruel expression of our national tribute.

During the second and third quarters of last year, the unemployment rate for Vietnam era veterans were particularly deplorable. In the age group, 20 to 24, the average unemployment rate for white Vietnam era veterans during the second and third quarter was 9.2 percent; for nonwhites in the same group, the rate was 15.1 percent in the second quarter and 18.5 percent in the third quarter. Such figures represent a compelling need for legislative action.

The next age grouping further underscores this need. Unemployment for nonwhite Vietnam era veterans 25 to 29 for the second quarter was 10.2 percent; for the third quarter, it was 11.2 percent. Meanwhile, over 100,000 white veterans from the same age group were unemployed during the second quarter alone.

Fourth quarter statistics for 1972 reveal that the unemployment rate for Vietnam era veterans in the 20 to 24 group remains nearly twice as high as the 5.0 percent national rate. And for the age group, 25 to 29, the unemployment rate for the nonwhite Vietnam era veteran is more than twice that of his white counterpart.

Mr. President, the two groups I have just cited—aerospace engineers and returned Vietnam era veterans—are comprised of men and women who are either highly educated or highly motivated or highly skilled or a combination of all three. In addition, many of these people are considered to be of prime labor age. It is expected that given the opportunity their contribution to the Nation's economy would be meaningful and productive. To these people the Nation offers a sympathetic ear, even though there is not always thoroughgoing followthrough. But for inter-city youth and those thousands and thousands of people, forced from farms and rural areas in the decades since World War II, for those people who have faced a generation of joblessness and hopelessness, the country is less understanding, feels less responsible, and hence is less responsive in terms of programmatic reforms.

The crisis in welfare is the ugly fruit of our long neglect or full employment as the essential first step in fighting poverty.

Why are most Americans hostile to welfare? Because they believe people ought to work and support their families. That is a belief which I share. But most Americans have simply been unaware of the number of those on welfare who could not work even if the jobs were available, and of the shocking lack of adequate job opportunities.

Under my bill, jobs would be made available for those on welfare who want and are able to work. This is offered in contrast to the position taken by the current administration that those who do not work are those who do not want to work. I believe that most welfare recipients are eager to work at decent paying jobs. Many cannot, because of a lack of day-care facilities; others, because the jobs simply do not exist. Every program that has attempted to supply training and work for those on welfare has had difficulty, because of a lack of available jobs. This would appear to be particularly true with regard to the highly publicized work incentive program—WIN.

In his recent book, "Do the Poor Want To Work? A Social-Psychological Study of Work Orientations," Leonard Goodwin, a member of the Brookings Institution governmental studies staff, states that the current welfare/work program—WIN—highly touted by the present administration, has failed—because in the final analysis most of the participants end up without jobs. Goodwin points out that a work requirement for welfare mothers could mean pushing more of them through WIN—even though 80 percent of them would not obtain jobs in the open market, or it could mean forcing them to fill the lowest paid jobs in American society. Either course, states Goodwin, would increase their psychological dependence on welfare and discourage further work effort. Public service employment would provide a program to rectify that situation by providing decent and meaningful employment in jobs that are real jobs. Individuals will be paid by the employers and not at the welfare office—the latter lacking both dignity and pride—two essential parts of any wage.

I wish to stress the concept of decent jobs, because I believe that most Americans have been simply unaware of subemployment in poverty neighborhoods over the past decades.

SUBEMPLOYMENT

The problem of job-associated poverty is much more serious than most people realize. In 1966, Secretary of Labor W. Willard Wirtz, surveyed the poverty neighborhoods of 10 major cities. He found that the problem was not simply unemployment, but part-time and low-paying jobs—jobs that paid below the minimum wage. He also found that many, many workers were so discouraged that they had ceased even to look for work.

Secretary Wirtz put these factors into a "subemployment" index, and determined that over 30 percent of the inner-city residents were not able to earn above poverty wages in the ghetto labor market.

In a memo to President Johnson, Wirtz said:

> If a third of the people in the nation couldn't make a living . . . there would be a revolution. This is the situation and the prospect unless action is taken in the nation-within-a-nation, the slums and ghettos.

As part of the 1970 census, the Bureau of the Census conducted a followup study of the 60 poverty neighborhoods in 51 cities and eight rural areas. The Government did not calculate a subemployment index, but the factors Wirtz considered are available. For Oakland, Calif., for instance, if in the first quarter of 1972 you added together the unemployed, the hopeless, and discouraged workers who no longer sought jobs, the part-time workers seeking full-time jobs, and those who were working full time but earning less than $2 per hour, you would find that a staggering 32.9 percent of Oakland was unemployed or underemployed.

For the Nation's inner cities and poor rural areas, subemployment now stands at nearly 30 percent. This means that close to one-third of the people in our poverty neighborhoods are unable to earn even minimum wages in the job market. And if we ask how many are unable to earn $3.50 per hour—the wage level needed to maintain a family of four at the Bureau of Labor Statistics' lowest adequate budget which is $7,214 a year—we find that 74.5 percent of the people are below a minimum adequate standard in earnings.

In California, partial data for 1972 indicates that major cities there are also subject to drastically high levels of subemployment. The preliminary calculations show:

San Francisco, 22.8 percent subemployed, 54.5 percent below the BLS adequate family income wage.

Los Angeles, 31.9 percent subemployed, 60.8 percent below the BLS adequate family income wage.

Oakland, 32.9 percent subemployed, 57.8 percent below the BLS adequate family income wage.

Considering the magnitude of the problem, it is no wonder that the modestly funded antipoverty programs—representing less than one-tenth of 1 percent of the Federal budget—and training programs aimed at ghetto unemployment have not solved the problem. The dual problem of unemployment/subemployment continues to grow more serious.

It is underemployment—as much as unemployment itself—that is at the roots of the poverty and welfare crisis. The effects of underemployment on welfare and poverty are discussed at length in an article, "Government as the Employer of First Resort—Public Jobs, Public Needs," by William J. Spring, professional staff member of the Senate Subcommittee on Employment, Manpower, and Poverty; Bennett Harrison, assistant professor of Economics at the University of Maryland; and Dr. Harold L. Sheppard, of the W. E. Upjohn Institute for Employment, which appeared recently in the November 4, 1972, New Republic.

States the article:

> Both sets of policies (income transfer and negative income tax), assume that the economy generates a sufficient number of jobs (except perhaps during recessions) to accommodate all who want to work, and that a worker with a full-time job will earn enough to support his or her family at or above a socially defined adequate level. Both assumptions are incorrect.

The article goes on to say that—

> The burden of our argument is that we need a strategy in place of, or in addition to, the present welfare-training approach to poverty and underemployment, one that al-

lows funds to be used selectively to expand the output of those goods and services which are underproduced by the private sector. The expanded production of these goods and services would in turn create jobs. This alternative economic policy has become known as "public service employment."

Mr. President, I ask unanimous consent that the full text of this article, as well as a similar article which appeared in the November 5, 1972, New York Times Magazine be set forth at the end of my statement after the bill.

I believe that public service employment, as a viable alternative to the present welfare-training approach, should provide for job redesign and civil service reform to assure that entry and advancement in Civil Service are based on true merit and not on arbitrary standards and tests. Such standards are an integral feature of the bill which I am proposing. S. 793 also requires that PSE employees be paid the minimum wage, or the prevailing wage, whichever is higher.

Our experience with the Emergency Employment Act indicates that jobs cost an average of $7,200 each under that program. However, that bill is very restrictive, providing less than 4 percent funding for training or for administration. A continuing program would require, and my bill does authorize, expenditures for training, administration—kept to the minimum necessary—tools, and necessary supplies and equipment. Up to 15 percent of the total appropriation could be so expended, with an individual grant limit of 10 percent on expenditures for equipment and supplies.

Mr. President, in spite of the crisis currently being faced by the aerospace worker's family, the returned veteran, and those Americans living in the inner city or the rural backlands, and others, public service employment still has its critics. But these critics, in their desire to use the Government only as an employer of "last resort," refuse to admit to the possibility that our present economic system has any shortcomings. This blind allegiance to traditional economic and employment policies obscures the fact that there are just not enough jobs to go around.

It is my firm conviction that it is more important to create jobs than it is to train people for jobs that do not exist—than it is to spend nearly $20 billion on a welfare system with which no one is happy; not the recipients; not the taxpayer; not those who administer the faltering system. According to recent Social and Rehabilitation Services Administration figurse, less than one-fifth of the total welfare population fall into the so-called employable category—these are the approximately 3 million adult AFDC recipients. The vast portion of welfare recipients—four-fifths—are the aged, the blind and disabled, and children.

It is a cruel hoax on us all, but particularly on the unwilling victims of our anger and frustration at this unwieldy system. Those victimized are least able to protest: The aged, from whom welfare administrators—often forced by law and regulations of overeager legislators—strip the last shreds of dignity; the ill and disabled; and the 7.9 million children on welfare who live a reality of frustration, mistrust, and fear—the main ingredients of the welfare cycle.

GOVERNMENT EMPLOYMENT AND ECONOMIC POLICIES

Between the end of World War II and President Kennedy's administration, the problem was ignored. Under Kennedy, modern economics began to gain acceptance in Washington. Today, even a Republican President declares himself a Keynesian.

How have the new methods worked? They have had some success in stimulating the economy as a whole. But they have not been effective in fighting unemployment where it hurts the worst, among the young, the poor, the black, the Chicano, the Indian, the disadvantaged. They have not produced significantly more jobs; they have not produced a sufficient number of decent jobs; and they have contributed to a runaway inflation which has convinced even a President who had long spoken in classical economic terms of the advisability of wage and price controls.

In September of 1971, former Secretary of the Treasury, John Connally, suggested that perhaps 5 percent unemployment is the best we can do in peacetime. With our present work force, that would mean over 4 million Americans unemployed. As the work force grows in the coming years, it would mean still more unemployed. What does the administration suggest we do with these people: Stamp them surplus and put them in mothballs? Shall we place them on the permanent dole? Or should we just place them in the mail and hope that the U.S. Postal Corporation will lose them?

Former Secretary of Labor Hodgson once asked us to concentrate on the "doughnut and not the hole." He meant the doughnut of the rising number of jobs, not the hole of unemployment. However, taking this advice can be a disquieting experience—for while we watch the slow rise in the number of jobs, the hole gets big enough to fall in. In this Nation, over 2 million persons—new entries and reentries—are added to the labor force each year. We must run just to stand still.

Yet, in the final analysis, describing unemployment as a hole is apt. In 1971, Prof. Robert A. Gordon, of the University of California, told the Joint Economic Committee, unemployment is, indeed, a hole in the lives of millions of American workers.

EUROPEAN UNEMPLOYMENT RATES

Is it practical to ask that we do better? Perhaps it would be helpful to compare the American unemployment rates over the past few years with those of the industrial nations of northern Europe. The rates have been adjusted by the Bureau of Labor Statistics to reflect American techniques for the calculation of unemployment; so they represent a fair comparison:

	United States	West Germany	Sweden	Great Britain	France
1971	5.9	0.7	2.6	5.3	2.7
1970	4.9	.6	1.5	4.0	2.2
1965	4.5	.3	1.2	2.2	1.8
1961	6.7	.5	1.4	1.9	1.9

Why so great a disparity between their performance and ours? That is a crucial question. Arthur Schlesinger in his book, "A Thousand Days," tells of President Kennedy asking why it was that in England they march on Parliament when unemployment rises above 2 percent. In this country the rate hovers at 5 percent and nobody seems to care.

I do not pretend to have the answer to the question. We have included in our bill a research section directing the Secretary of Labor to look into the structural barriers in the American economy that makes achievement of full employment difficult and to compare this situation to relevant experience in other countries.

But I do know this. The callous attitude toward the unemployed displayed by all too many key leaders in the administration—and by all too many other Americans across the land who have not themselves come face to face with unemployment—plays a crucial role in our inability to defeat unemployment.

As long as the popular impression remains that a man without a job is a man who has failed some personal moral test rather than a person who, in many instances, is a victim of economic forces beyond his control; as long as so much of the Nation holds the small men and the poor personally responsible for the failures of the entire system, just so long will adequate public policy in employment and other crucial fields of social policy remain piecemeal and halfway measures.

THE NEED FOR PUBLIC SERVICES

If this Nation were now as prosperous in public goods—in housing and schools, in hospitals and transportation, in park land and recreation facilities—as some segments of our population are in the goods of private life, then perhaps it would be time to consider resting on our oars and sharing the leisure some enjoy.

But that is not the case. The Nation, in fact, is starved for many public goods in the midst of private opulence.

We need the mind and muscle and the hard, good work of all our citizens if we are to meet the enormous challenges of the last quarter of this century and if we are to make a highly technological and growing society a fit habitat for democratic man. We need full employment, not just to provide work and income to individuals, and to sustain their families, but to meet the Nation's needs which are not now being met.

The desperate need for better public services is too well known by all of us who seek a decent life for ourselves and our children in this crowded, impersonal society.

As long ago as 1963, the Commission on Automation and Technology urged public service employment as a manpower policy and documented the need for some 5.3 million jobs.

Greenleigh Associates, a respected firm of management consultants, on contract for the Office of Economic Opportunity, stated that there were at least 4.3 million jobs available in needed public services that could be performed by the unemployed.

The Kerner Commission, in the spring of 1968 when unemployment stood at 3.6 percent recommended an immediate program of 500,000 jobs based on the Greenleigh and Automation Commission estimates of potential jobs.

The Urban Coalition commissioned Dr. Harold L. Sheppard, of the W. E. Upjohn Institute, to survey the number of jobs available in large cities. He reported in January 1969, that there were some 240,000 jobs immediately available just in the cities of 100,000 population or more.

Meanwhile, with unemployment at 5 percent and the numbers of unemployed over 4 million, the demand for State and local services continues to expand.

A growing population requires additional services just to stay in place. If our cities are to be made decent places to live, rather than fearful places of want, crime and desperate flight to the suburbs, everyone who has looked closely at the problem has recognized that a substantial expansion of public services is needed.

The administration—while basing its full employment annual budgeting on the assumption that Government income would provide a surplus if the unemployment were down to 4 percent, has seriously suggested that the 4-percent level of unemployment is an unrealistic goal.

The President's Council of Economic Advisors has suggested that persistent high unemployment accompanied by rapid inflation has become a structural feature of the American economy.

If the pursuit of full employment through stimulation of the economy as a whole has failed as a policy, if we are reaching unacceptable levels of inflation before coming close to achieving full employment through expansionary economic policies, then the time has come to go beyond such traditional job-stimulation policy.

We must not despair of achieving full employment. We must find other means of achieving it.

A full employment policy at decent wage rates for decent jobs will require very broad scale economic and social policy. It will require very extensive programs, including economic growth strategies for depressed areas, funded at a level that promises success. It will require a new policy in housing construction and in transportation. It will require a higher minimum wage, and expanded training programs.

THE PRESENT ADMINISTRATION'S APPROACH

But such a broad strategy can only be planned and carried out by an administration that takes full employment as the highest domestic priority. An administration that sought for over 2 years to fight inflation by deliberately increasing unemployment may not be considered likely to undertake such a course. But this administration at times has sensed the inadequacies of its standard approaches.

In the summer of 1971, we had the privilege of welcoming the administration to our ranks in support of the Emergency Employment Act composed of the basic provisions which the President had strongly opposed during the winter and spring of 1971.

I very much hope that President Nixon will respond positively to this legislation. In any case, Congress cannot wait upon the initiatives of the White House.

We did not wait upon the White House in drafting and passing the Emergency Employment Act of 1971. The adminstration later boasted of that program. Although now, it requests no extension of it beyond this year.

In this Congress there has already been a strong and concerted outcry against the arbitrary imposition of Presidential authority, and the usurption of congressional authority by the Executive. I believe that the Congress will continue to be forceful and assert its rights and responsibilities to initiate essential policies on the domestic scene.

During the past 2 months I have received literally thousands of letters decrying the "benign neglect" reflected in the administration's fiscal year 1974 budget. At this point in my remarks, I would like to quote in full one such particularly insightful letter from a concerned Californian:

SAN FRANCISCO COMMUNITY COLLEGE DISTRICT,
San Francisco, Calif., February 8, 1973.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I was gratified to learn that you are leading the fight to restore the disastrous budget cuts in Great Society programs being recommended by the President. I want you to know that I fully support your efforts and will do everything possible to help.

It is unfortunate that the President has so misread the meaning of his second term election. It appears that he has overlooked the impressive Democratic Congressional and State house victories to arrive at a personal conclusion that the people mandated him to dictatorily run the country. However, the people have rather sensibly maintained the sensitive check and balance system which has been the basic foundation for our survival.

What this means for San Francisco is that the people have reinforced the need to continue the Great Society programs. These programs are paramount to the continuous struggle to save the city from becoming a decayed urban inner-core city. The problems of housing, employment and health must receive tremendous attention which goes way beyond the slick package called revenue sharing.

The voices of the people I listen to are radiating a very ominous and sinister subliminal roar of betrayel and helplessness. This is developing an increasing number of people who have feelings of being trapped, which becomes a potent time bomb. The atrocities of the riotous sixties have too soon been forgotten, but they will reappear in the civil war of the seventies.

None of us who were a part of those explosive situations are desirous of reliving them. To prevent a more devastating and lasting war, the message from the people that must be given to the decision makers in Washington is as follows.

We do not want cuts in the Great Society program. We want realistic increases in order to begin a serious assault on the problems of the cities. We recognize the necessity to revamp, revise and release some unworkable features, but we need to get committed to doing people-business as importantly as doing economic business. Failure to relate to this plea now will result in the hearing of more deafening cries at a later date.

Good luck in your mission. The people of the United States need it.

Sincerely,

THOMAS R. HENDERSON,
Assistant Director.

Mr. President, it is generally recognized that monetary and fiscal policy alone will not bring us to full employment. The President's Council on Economic Advisers stated on page 109 of its 1972 annual report:

When unemployment is high, the development of additional jobs in areas of unmet public needs is possible and desirable. Initiation of the . . . Emergency Employment Act was a major step forward in this area.

The Council attributes much of our current unemployment—too much, I believe—to the larger percentage of teenagers and women now in the labor force.

The Council points out that unemployment, especially among these groups, has not responded, as economic theory would predict, to expansion of the general economy. The report stated:

The persistence of this large difference (between unemployment rates for teenagers and those for married men) in both good times and bad suggests that factors other than lack of aggregate demand cause the differential.

It is my belief, Mr. President, that the nagging persistence of unemployment, not only for teenagers and women, but for blacks and browns, Indians and migrants, and all persons living in poverty communities in our inner-cities and rural areas, is the result of the structure of our economy.

The administration took official note of the seriousness of the underemployment problem. Congress, in extending authority to impose controls on the economy, required that no ceiling be imposed on pay raises given those who are paid a substandard wage. In 1972, the Cost of Living Council defined the level of substandard wage as any pay below $1.90 an hour. The fact is that 15 percent of the labor force—some 13.7 million Americans—now work for wages beneath that Cost of Living Council standard.

Last year, the Washington Post printed a story telling how the $1.90 an hour figure was reached. The Pay Board recognized that the Bureau of Labor Statistics low adequate budget—then $6,960, now revised to $7,214, for an urban family of four—represented a reasonable figure. The Pay Board lowered that figure to take into account tax cuts and other factors and recommended a substandard wage level of $2.20 an hour.

The Cost of Living Council lowered that figure to $1.90 an hour by calculating that there are an average of 1.7 workers in each American family. However, the fact of the matter is, that for poverty families there are only the equivalent of 0.88 full-time workers per family, so that substandard wage level ought to be considerably above the $2.20 level, if anything. Whatever the administration's calculations are, it is very significant that it has now officially recognized that the poverty line—now set at $4,200 a year for an urban family of four—is not a level of income adequate to support family life.

The Bureau of Labor Statistics' figure of $7,214 is based on an actual market basket of goods needed for an adequate life. The BLS low adequate budget figure comes much nearer to defining the true extent of poverty in this Nation than the commonly accepted "poverty line" indicator. Indeed, the Senate, in passing child development legislation last Congress in S. 3617, used the BLS figures to establish the level for free child-care services.

It is clear that, if we are to provide an adequate supply of jobs at decent wages to all Americans, the Government must undertake direct job-creation efforts.

We must continue the fine beginning we have made through the Emergency Employment Act. However, as important as EEA jobs are, I do not believe that they are even near enough—the over 200,000 jobs provided through EEA to date are merely a drop in the bucket. It is time to move beyond "transitional" programs and to begin seriously to consider ways of providing decent jobs and decent wages for all Americans who seek work.

PAYING FOR THE PROGRAM

Where would the money come from? In my opinion, full employment is this Nation's only hope if we are to avoid a society divided between the working citizens and a permanent welfare class. We cannot afford continued, everlasting high rates of unemployment. It is not a question of affording jobs. We cannot afford high unemployment.

The Nation needs full employment a great deal more than it needs the estimated $6 billion increased in the already swollen defense budget for fiscal year 1973. We have cut costs in Vietnam from a high in 1969 of $28.8 billion to an estimated $7.2 billion in the fiscal year 1973 budget. This, of course, does not reflect the costs of rehabilitation services, lost resources—human as well as actual—veteran's pensions and benefits, and the like—estimates go nearly as high as four times the $133 billion the war has cost in defense budget terms.

Prof. George Perry of the Brookings Institution estimates that a reduction in the unemployment rate from 5 percent to 4 percent would lead to an increase in Federal tax revenues of a minimum of $10 billion. The Joint Economic Committee's own estimates run as high as $15 billion. That alone could pay for the cost of this program.

Perry has pointed out to the Joint Economic Committee:

> Presently the GNP gap, estimated as the shortfall of actual from potential output at 4 percent unemployment, is nearly $80 billion. We would be giving up roughly $35 billion of the GNP if we settled for 5 percent unemployment target instead. That, in turn, represents a loss of more than $10 billion in federal revenues. In terms of budget programs, at the same set of tax rates, federal expenditures would have to be lower by about $15 billion in order to stabilize the economy at 5 percent rather than 4 percent unemployment.

While $10 billion of Federal spending for public services and job creation would not result directly in $10 billion in increased Federal revenues, the multiplier effect of the program would be very considerable, leading to substantial stimulation of the economy and very much higher tax revenues in subsequent years. Moreover, in many cases there would be very direct and substantial savings in welfare and institutional costs and supporting services as families are held together through the provision of job opportunity.

A REALISTIC SOLUTION

Is my proposal realistic?

In the 91st Congress, many did not take us seriously when Senator NELSON, chairman of the Employment, Manpower, and Poverty Subcommittee, I, and other members of the subcommittee, proposed a modest public service employment program as part of the comprehensive manpower legislation then being considered. In fact, the President vetoed the legislation after it had passed Congress largely because of its public service employment provisions. But within 6 months Congress had enacted an even larger, though still modest, public service employment program, and the President signed it into law.

Many months have passed. Various policies have been launched and tested. Yet we are still afflicted with an average unemployment rate of 5 percent.

Many questions remain to be answered. How much stimulation to State and local economies can we expect from a great local expansion of public service employment opportunities? In other words, what will be the multiplier effect in terms of job creation of providing funds for 1.15 million new jobs?

What is the proper mix of jobs on public payrolls and jobs with private agencies carrying out public service employment programs?

What percentage of the jobs ought to be allocated to teenagers, middle aged and older workers, minority groups, migrants, those on welfare, and other especially hard hit groups?

How can we best insure more movement of workers from public service employment jobs onto unsubsidized employment?

What measures can be taken to stimulate economic growth in poverty areas?

Much has been learned about public service employment through experience across the land in implementing the Emergency Act. We can profit from that experience in perfecting this new act.

However, the need for more public services and the need for more jobs is desperate. The need is now. The time to act is now.

CONCLUSION

America's promise of democracy and economic opportunity is not a promise for only some of its citizens. It is the promise to all.

Mr. President, for too long we have relied upon the vast natural resources of the country and the natural workings of the economy to meet our obligations for providing adequate employment opportunity. We can do so no longer.

To continue to rely on prescriptions of the past will be to divide this Nation into the separate worlds of the employed and satisfied, on the one hand, and the jobless and the resentful, on the other. It is long past the time when we must develop remedies equal to the seriousness of the problem. It is time for a true full employment strategy for the Nation.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a brief summary of the bill's provisions, followed by the full text of the bill, and the two articles which I referenced in my remarks.

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

SUMMARY OF THE PUBLIC SERVICE EMPLOYMENT ACT OF 1973—S. 793

S. 793 authorizes $3 billion for FY 73, $7 billion for FY 74, $10 billion in succeeding fiscal years for a national program of public service employment and a public service employment-economic development program in areas of severe unemployment. (The authorization for FY 1973 which is not fully realized in appropriations would remain available in FY 1974).

It is based on the good beginning made under the Emergency Employment Act of 1971. Under the EEA, states, cities, and counties across the country are successfully administering, under contract with the Labor Department, a $1 billion public service employment program with over 169,000 present employees.

But unemployment is over 4 million Americans. More than 11 percent of the workforce averaged an unemployment period of more than 27 weeks in 1972. Youth unemployment, in the first quarter of 1972, stood at 18%, the highest recorded since WW II. Unemployment for minority groups continues to be staggering. Unemployment for blacks stands at twice the national average.

At the $10 billion level, the bill would finance more than one million jobs ($7,210 average per job). The bill authorizes expenditure of 15 percent for training and the purchase of necessary equipment, the latter being limited to 10% of the allocation to any PSE applicant.

The bill reserves 25% of its funds for areas with unemployment over 6 percent, including areas as small as urban poverty neighborhoods, like Bedford-Stuyvesant, Watts and East Los Angeles. For these areas, the bill authorizes a new SEED program (Special Employment and Economic Development). The SEED program is designed to provide a coordinated program of immediate jobs and long-range economic development (including minority ownership and low-cost housing) to help poverty areas become more self-sufficient. Also, public services would be carried out in the depressed areas themselves, to the maximum feasible extent.

Under the Public Service Employment Act of 1973, states, cities and counties (and Indian tribes) seeking to operate public service employment programs would form public service employment councils, broadly representative of government, business, labor, veterans, the poverty community, community action agencies, model cities programs, and unemployed persons; and local public institutions likely to provide employment opportunities, such as education, health, public safety, conservation, sanitation and recreation representatives.

The PSE Councils would survey both the need for jobs and the need for expanded public services and assist in preparing the application for program funds.

Of the funds under the act, 80% would be allocated to states and localities on the basis of unemployment and low-income persons. The balance would be reserved to the Secretary to be distributed at his discretion (including amounts for research—including comparative studies of other counties' experience—pilot projects, evaluation, technical assistance, and special unemployment

and underemployment surveys for state and local areas). If local governments do not adequately serve the area or its disadvantaged groups, or if governments agree to direct funding to local groups, direct funding would be permitted to community action agencies, model cities programs, or other non-profit agencies.

The bill also provides priority for Vietnam era veterans in job hiring—and assurances that aerospace workers, those on welfare, older persons, those of limited English-speaking ability, and other groups of the unemployed will receive a fair share of jobs. Special linkages with welfare agencies would be required. It also stresses upward mobility in jobs and the movement of individuals assisted in PSE jobs into jobs *not* funded under the PSE Act.

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.

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 "Public Service Employment Act of 1973".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds and declares that—

(1) continued intolerable levels of poverty in the Nation's cities and rural areas are in large measure the result of high levels of unemployment and underemployment in those areas;

(2) the Nation has failed to fulfill the commitment made twenty-five years ago in the Employment Act of 1946 to assure maximum levels of employment through public policy;

(3) the unmet need for adequate public services in urban and rural areas and the existence of unused and underused manpower resources in these same areas provide an opportunity for the Nation to solve both problems at the some time;

(4) high unemployment severely limits the work opportunities available to the general population, especially low-income persons, and migrants, persons of limited English-speaking ability, and others from socioeconomic backgrounds generally associated with substantial unemployment and underemployment;

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

(6) with high unemployment, many low-income persons are unable to secure or retain employment, making it especially difficult to become self-supporting and thus increasing the number of welfare recipients;

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

(8) it is appropriate to assist States and local communities to hire the unemployed to fill unmet needs for public services in such fields as environmental quality, health care and public health, housing and neighborhood improvements, recreation, education, public safety, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, crime and fire prevention and control, prison rehabilitation, and other fields of human betterment and public improvement.

It is therefore the purpose of this Act to provide such unemployed and underemployed persons with employment in jobs providing needed public services and appropriate training and related services.

DEFINITIONS

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

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

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

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

(4) "health care" includes, but is not limited to, public health services and activities, preventive and clinical medical treatment, voluntary family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services;

(5) "veterans outreach" means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such title 38;

(6) "unemployed persons" means—

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

(B) adults who or whose families receive food stamps or surplus commodities under the Agricultural Act of 1949 or the Food Stamp Act of 1964 or money payments under title I, IV, X, or XVI of the Social Security Act (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and determinations under clause (A) shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed; and

(7) "underemployed persons" means—

(A) persons who are working part time but seeking full-time work;

(B) persons who are working full time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

(b) As used in section 11(c) of this Act, the term "area" means—

(1) where the applicant is an eligible unit of government or an Indian tribe, that geographical area over which the applicant exercises general political jurisdiction, or

(2) where the applicant is a public or private non-profit agency or institution serving any area within the jurisdiction of an eligible unit of government, that geographical area over which such unit of government exercises general political jurisdiction.

AUTHORIZED APPROPRIATIONS

SEC. 4. (a) There are authorized to be appropriated to carry out this Act $3,000,000,000 for the fiscal year ending June 30, 1972, $7,000,000,000 for the fiscal year ending June 30, 1973, and $10,000,000,000 for the fiscal year ending June 3, 1974, and for each fiscal year thereafter.

(b) The amount authorized to be appropriated for any fiscal year under subsection (a) shall be increased by any amount authorized to be appropriated for the preceding fiscal year which remains unappropriated at the end of such preceding fiscal year.

(c) Notwithstanding any other provision of law, any funds appropriated to carry out this Act which are not obligated and expended prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure until expended.

(d) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to the advance funding method of timing appropriation action, this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

FINANCIAL ASSISTANCE FOR PUBLIC SERVICE EMPLOYMENT PROGRAMS

SEC. 5. (a) The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this Act for the purpose of providing financial assistance to public and private nonprofit agencies and institutions for the creation of jobs providing employment for unemployed or underemployed persons in carrying out needed public services.

(b) For the purpose of entering into arrangements with the Secretary under this Act, eligible applicants shall be—

(1) States, counties, cities, and other units or combinations of units of general local government which have established public service employment councils pursuant to plans approved by the Secretary under section 7 in order to carry out comprehensive public service employment programs; and

(2) other public and private nonprofit agencies and institutions (including community action agencies, model cities programs, community development corporations, Indian tribal organizations, and public service agencies and institutions of the Federal Government) when the Secretary determines that (A) the appropriate unit of government eligible under paragraph (1) of this subsection has agreed to such an arrangement, or (B) such unit has not submitted a plan under section 7 or an application for any fiscal year under section 8 which meets the purposes and provisions of this Act, or (C) an applicant described in this paragraph will carry out a public service employment program which more adequately meets the needs of a particular geographical area or community or population group in accordance with the purposes and provisions of this Act.

SPECIAL EMPLOYMENT AND ECONOMIC DEVELOPMENT ASSISTANCE

SEC. 6. (a) There is hereby established a special employment and economic development assistance program. The Secretary shall reserve 25 per centum of the appropriations under this Act for each fiscal year for the purpose of carrying out this section.

(b) The Secretary shall enter into arrangements with eligible applicants meeting the criteria set forth in subsection (c) in order to make financial assistance avialable, in accordance with the purposes and provisions of this Act, for the purpose of providing employment, for unemployed and underemployed persons residing in areas of substantial unemployment, in jobs providing needed public services, which shall be carried out to the maximum practicable extent, within such areas.

(c) For the purpose of this section—

(1) "area of substantial unemployment" means any geographical area of sufficient size

and scope to sustain a public service employment program under this Act and which has a rate of unemployment equal to or in excess of 6 per centum for three consecutive months and such an area shall continue to be deemed an area of substantial unemployment until the rate of unemployment has been less than 6 per centum, on the average, for the succeeding twelve months; and

(2) "eligible applicant" means any unit or combination of units of general local government or any public or private nonprofit agency or institution or Indian tribal organization which serves an area of substantial unemployment.

(d) In determining the rate of unemployment for the purposes of section (c) (1), persons who were, at the time of their employment under this Act, being counted as unemployed in determining such rate of unemployment shall continue to be so counted if they continue in such employment.

(e) Whenever the Secretary makes any determination required by subsection (c) (1) of this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

(f) The Secretary is authorized to use not to exceed 20 per centum of the amounts available for carrying out this section for any fiscal year to provide financial assistance for economic development, low-cost housing, public works, and economic opportunity programs designed to assist in the long-range improvement of the economy of areas of substantial unemployment. The Secretary may provide financial assistance under this subsection only in accordance with criteria which shall be prescribed by the Secretary of Labor with the concurrence, as appropriate, of the Secretary of Housing and Urban Development, the Secretary of Commerce, and the Director of the Office of Economic Opportunity.

PUBLIC SERVICE EMPLOYMENT COUNCILS

SEC. 7. (a) Any State, county, city, or other unit or combination of units of general local government which desires to be an eligible applicant in order to enter into arrangements with the Secretary under any provision of this Act shall submit to the Secretary a plan for the establishment of a public service employment council which shall—

(1) provide that the chief executive officer or governing body of the unit or units of government establishing such council shall appoint the members of the council and shall designate one member to be chairman;

(2) provide that the council shall consist of an equal number of members representing each of the following groups—

(A) community organizations, including community action agencies, model cities programs, the public employment service, education and training institutions, veterans organizations, and business and labor;

(B) job and service providers, including health, education, environmental quality, child care, recreation, public safety, and social service agencies;

(C) organizations representing low-income persons and other significant segments of the population to be served in accordance with the purposes of this Act;

(3) provide that the chairman of the council shall, with the approval of the council, appoint a staff director who shall supervise professional, technical, and clerical staff serving the council;

(4) set forth procedures under which applications for financial assistance for any fiscal year will be submitted by the applicant which shall be responsible for planning and carrying out services for which financial assistance is provided under this Act, and under which appropriate arrangements will be made for the council's participation in the planning and development of such applications;

(5) set forth the council's plans for conducting, on a continuing basis, surveys and analyses of unemployment and underemployment and needs for public services in the geographical area served by the council, to be used in the development of applications for assistance under this Act;

(6) set forth arrangements assuring that community action agencies, model cities programs, and other appropriate community organizations, will be involved in the development of applications for financial assistance under this Act;

(7) set forth the council's plans for evaluating the effectiveness of programs for which financial assistance is provided under this Act and for periodically reporting full statistical data to the Secretary for such programs; and

(8) describe the geographical area to be served by the council.

(b) The Secretary shall approve plans submitted by units of government under subsection (a) which are consistent with the purposes and provisions of this title and meet the requirements of subsection (a). A plan submitted by a unit of government may be disapproved only if the Secretary, in accordance with regulaitons which he shall prescribe, has provided—

(1) written notice of intention to disapprove such plan, including a statement of the reasons therefor;

(2) a reasonable time to submit corrective amendments to such plan; and

(3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

(c) The Secretary shall make available not more than 1 per centum of the sums appropriated to carry out this Act for the purpose of paying such amounts as may be reasonably necessary to cover the staff and other administrative expenses of the councils established pursuant to subsection (a). The amount made available for the purposes of this subsection shall be allocated from the funds available to the Secretary under paragraph (2) and section 9(a).

APPLICATIONS

SEC. 8. (a) Financial assistance under this Act may be provided by the Secretary only pursuant to an application from an eligible applicant approved by the Secretary in accordance with the purposes and provisions of this Act. Such application shall set forth a public service employment program designed to create jobs providing employment for unemployed and underemployed persons in carrying out needed public services.

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

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

(2) a description of the geographical area to be served by such programs, and a plan for serving on an equitable basis the significant segments of the population to be served, including data indicating the total number, and the number in each such segment, of unemployed and underemployed persons and their income and employment status;

(3) a description of the methods to be used to recruit, select, and orient unemployed and underemployed persons, including specific eligibility criteria, and programs to prepare such persons for their job responsibilities, including a description of the special methods to be used to acquaint such persons of limited English-speaking ability with the availability of such programs;

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

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

(6) the wages or salaries to be paid participants and a comparison with the prevailing wages in the area for similar work;

(7) the education, training, and supportive services (including counseling and health care services) which complement and enhance the work performed;

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

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

(10) an indication of the full participation and maximum cooperation among local public officials, area residents, and representatives of private organizations in the development of the program and a description of their respective roles in the conduct and administration of the program;

(11) assurances that public service employment opportunities will be provided on an equitable basis among significant segments of the population of unemployed and underemployed persons whom it is the purpose of this Act to assist;

(12) assurances that priority in filling public service jobs will be given to unemployed or underemployed persons who served in the active military, naval, or air service (as that term is defined in title 38, United States Code) on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges); and that the applicant shall (A) in conjunction with the veterans outreach program, make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment service for veterans), or carried out by other public or private organizations or agencies;

(13) that agencies and institutions to whom financial assistance is made available under this Act have undertaken analyses of job descriptions and reevaluations and, where shown necessary, revisions of qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations prescribed by the Secretary, with a view toward removing artificial barriers and achieving an equitable distribution of jobs for those whom it is the purpose of this Act to assist;

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

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

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

(17) assurances that special consideration will be given to employing welfare recipients who want and are available for work and that appropriate linkages will be established and maintained with welfare agencies and with other programs making special efforts to assist welfare recipients to become self-sufficient;

(18) assurances that special consideration will be given to employing persons who have become unemployed as a result of technological changes or as result of shifts in the pattern of Federal expenditures, including unemployed defense, aerospace, and construction workers;

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

(c) Programs assisted under this Act shall, to the extent feasible, be designed with a view toward enabling individuals to move into public or private employment or training not assisted under this Act, and toward—

(1) developing new careers, or

(2) providing opportunities for career advancement, or

(3) providing opportunities for continued training, including on-the-job training.

(d) An application, or modification or amendment thereof, for financial assistance under this title, may be approved only if the Secretary determines that—

(1) the application is consistent with the purposes and provisions of this Act;

(2) the application meets the requirements set forth in this section;

(3) an opportunity has been provided to the appropriate community action agency, model cities program, and organizations representing significant segments of the population to be served in the area to be served to submit comments with respect to the application to the applicant and to the Secretary;

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

Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

ALLOCATION OF FUNDS

SEC. 9. (a) The amount appropriated under section 4 of this Act for any fiscal year shall be allocated by the Secretary in such a manner that of such amounts—

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

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

(b) The amount apportioned to each State under clause (1) of subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration the proportion which the total number of unemployed and low-income persons in each such area bears to the total number of such persons, respectively, in that State.

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

TRAINING AND RELATED SERVICES

SEC. 10. For the purpose of providing training and related services, and the acquisition or the rental or leasing of supplies, equipment, materials, and real property necessary to enable persons to be employed in public service employment programs assisted under this Act, the Secretary shall utilize, in addition to any funds otherwise available under federally supported manpower programs, not to exceed 15 per centum of the amounts appropriated under this Act for each fiscal year.

SPECIAL PROVISIONS

SEC. 11. (a) The Secretary shall not provide financial assistance for any program or activity under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

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

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

(3) funds under this Act will not be used to pay persons employed in public service jobs under this Act at a rate in excess of $12,000 per year;

(4) all persons employed in public service jobs assisted under this Act will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to the same working conditions and promotional opportunities as such other employees enjoy;

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

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

(7) not to exceed 10 per centum of the funds available for any program under this Act will be used for the acquisition or the rental or leasing of supplies, equipment, materials, or real property; and

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

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

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

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

(e) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(f) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per participant, including breakdowns, between wages, training, and supportive services, all fringe benefits, and administrative costs.

The Secretary shall compile such information on a labor market, State, regional, and national basis and shall include such information in the report required by section 13 of this Act.

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

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

(i) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(j) Programs assisted under this title shall, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement,

including civil service requirements which restrict employment opportunities for the disadvantaged and for significant segments of the population whom it is the purpose of this Act to assist.

LEGAL AUTHORITY

SEC. 12. Rules, regulations, guidelines, and other published interpretations or orders issued by the Department of Labor, or any official thereof, in connection with or affecting the administration of any authority under this Act shall contain, immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

SPECIAL REPORT

SEC. 13. The Secretary shall transmit to the Congress at least annually a detailed report setting forth the activities conducted under this Act, including information derived from evaluations required by this Act and information (1) on the extent to which participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, and (2) the extent to which segments of the population of unemployed and underemployed persons are provided public service employment opportunities in accordance with the purposes of this Act.

TECHNICAL ASSISTANCE AND EVALUATION

SEC. 14. From funds available to the Secretary under paragraph (2) of section 9(a) for each fiscal year, the Secretary shall reserve such amount, not to exceed 1 per centum, as he deems necessary to provide for technical assistance to eligible applicants seeking to comply with the requirements of this Act and a continuing evaluation of programs assisted under this Act and their impact on related programs.

RESEARCH

SEC. 15. The Secretary shall carry out a program of research and pilot projects into alternative ways and means to reach full employment defined as job opportunities at adequate wages for all those able and willing to work, including analyses of structural and other barriers to achieving such full employment, including a comparative analysis of the employment and poverty experience of other countries. The Secretary shall transmit the results of research efforts under this section to the Congress and make them readily available to the general public. For the purposes of this section, not to exceed $50,000,000 shall be reserved from funds available to the Secretary under paragraph (2) of section 9 (a) for each fiscal year ending prior to June 30, 1975.

LABOR MARKET INFORMATION

SEC. 16. (a) In addition to the monthly national unemployment statistics, the Secretary shall gather by survey and publish on a regular basis data on unemployment, underemployment, and job vacancies by State, labor market area, rural area, and city and poverty neighborhoods.

(b) For purposes of this section, underemployment shall include persons who have part-time work but desire full-time work, discouraged workers not in the labor force, and persons earning less than the Federal minimum wage. Separate data shall be collected and compiled showing the total number of persons earning wages at levels lower than that sufficient to provide an annual income at the level of the lower living standard budget for a family of four (adjusted for regional, metropolitan, urban, and rural differences), as determined annually by the Bureau of Labor Statistics of the Department of Labor.

(c) Vacancy data shall include information on (1) how many unfilled jobs are available in the economy, by industry and occupation, (2) what are the capability requirements of such jobs, (3) salaries, wages, and other benefits of such jobs, (4) where jobs are located, and (5) how many and what kind of jobs remain unfilled for sixty days and for ninety days. To develop such data, the Secretary is authorized to require that all job vacancies be reported to the Department of Labor.

(d) Not to exceed 1 per centum of the funds available to the Secretary under paragraph (2) of section 9(a) for each fiscal year shall be available for the purpose of carrying out this section.

ACCEPTANCE OF FUNDS

SEC. 17. The Secretary is authorized to accept and utilize in carrying out the purposes and provisions of this Act funds appropriated to carry out other provisions of Federal law if such funds are utilized for the purposes for which they are specifically authorized and appropriated.

[From the New Republic, Nov. 4, 1972]

GOVERNMENT AS THE EMPLOYER OF FIRST RESORT—PUBLIC JOBS, PUBLIC NEEDS

(By Bennett Harrison, Harold L. Sheppard and William J. Spring)

The authors are associated with the University of Maryland, the W. E. Upjohn Institute for Employment and the U.S. Senate subcommittee on employment, manpower and poverty, respectively. Their book on "The Political Economy of Public Service Employment" was recently published by Heath-Lexington

George McGovern's economic and urban affairs advisers have belatedly discovered the potential and need for a full-fledged program of public services to reduce unemployment and get done many things left undone by private enterprise. President Nixon meanwhile promises a second term of reduced government spending, and his Office of Management and Budget has killed the small existing Public Employment Program that gives jobs to about 150,000 people. Here then is one major issue on which the candidates differ. No matter who sits in the White House next January 20, it's an issue that will not die.

When Martin Luther King led the March on Washington in 1963, he called for "freedom and jobs." Jobs at decent wages, he said, would eliminate poverty and reduce inequality. He was right, but his prescription was ignored by those who developed and subsequently administered the war on poverty. We are still paying the price of their ignorance. Persistent poverty and underemployment are directly attributable to the conviction—among Democrats and Republicans—that those who cannot "make it" in our labor markets are unable to work at all, or lack the skill, drive and motivation needed to earn an adequate living.

Welfare ("income transfer") programs are addressed primarily to the first group; they are based on the political decision to provide some (small) measure of distributive justice for the very young, the very old, the disabled, and those whose family responsibilities make it undesirable (in the opinion of the policy makers) to have them participate in the world of work. The social service and manpower development programs are concerned with the second group; they try to overcome "working poverty" by improving the skills, abilities, and attitudes of low-income workers, thus making them more "employable."

"Negative income tax" proposals recognize the substantial overlap between the two groups of disadvantaged citizens, but they then recommended a mix of welfare and job training programs with graduated incentives to induce people to move voluntarily "from the welfare rolls to the payrolls."

Both sets of policies assume that the economy generates a sufficient number of jobs (except perhaps during recessions) to accommodate all who want to work, and that a worker with a full-time job will earn enough to support his or her family at or above a *socially* defined adequate level.

Both assumptions are incorrect. Even in 1966, when we had what was conventionally accepted as "full employment"—less than four percent joblessness—people in the inner city ghettos studied by the US Department of Labor in its first Urban Employment Survey had "subemployment" rates averaging 33 percent. Again in 1970, the Census Bureau's employment survey in 51 central cities and nine rural counties enabled the Senate subcommittee on employment, manpower and poverty to estimate that one out of three low-income area workers was *subemployed;* that means, out of work, employed at poverty wages, locked involuntarily into a part-time job, or so discouraged by repeated failure to find a decent job that he or she had finally stopped looking altogether. *National* subemployment during the late 1960s may have been as high as 10 percent.

Recent and forthcoming studies by a number of social scientists report the failure of the education, training and welfare policies of the 1960s to reduce significantly the poverty and underemployment of millions for whom the labor market still does not provide an exit from the American underclass. In 1970, there were still over 11 million who work 35–40 hour weeks—many of them not year-round—but who were officially "poor." The number of full-time *year-round* workers whose wages fell below the Bureau of Labor Statistics' Recommended Lower Level Budget for an Urban Family of Four Persons ($7000 in 1970) was 10.9 million—30 percent of our labor force. Especially for nonwhite workers, schools do not seem to reduce inequality; job training programs recycle their graduates back into the same kinds of low-wage, unskilled work they had held prior to training. And supplemental welfare payments serve more to subsidize the employers than enable the workers and their families to reach a decent living standard. There's nothing the matter with *their* "work ethic." The problem is with the economics and ethics of their industries. It is often assumed that those who stay poor despite expensive efforts to educate and train them really don't *want* to work. Researchers are finding, however, that poor motivation is at least as much the *result* of frustrated job expectations and entrapment in the "secondary labor market" as it is the cause of such immobility. This spills over into the controversy surrounding female-headed—especially black—urban households. Unstable family structure may be not only a cause of welfare dependency, but also a result of a woman's sensible caution about the support-reliability of the men in her circle, resulting in a need to depend on welfare, a need created by the inability of large numbers of urban black men (not all of them) to support families on the indecently low wages paid by employers in that part of the labor market to which they are confined.

The burden of our argument is that we need a strategy in place of, or in addition to, the present welfare/training approach to poverty and underemployment, one that allows funds to be used *selectively* to expand the output of those goods and services which are underproduced by the private sector. The expanded production of these goods and services would in turn create jobs. This alternative economic policy has become known as "public service employment."

The term is unfortunate. The things which a private sector systematically underproduces include goods (such as "clean" automobile engines) as well as services (such as fire protection). Moreover, the "publicness" of production derives not from the fact that government does the producing (many "public goods" are produced by private companies—

and should be), but from the fact that private companies will not automatically supply adequate quantities of the publicly needed items. Without subsidies, it is not profitable for them to do so.

The term "public service employment" also has the stigma of "make-work," "boondoggling," and this has misled many to interpret it as a program of "government as employer of last resort." Even if one thinks that publicly subsidized job creation should be undertaken only during recessions, it is nonsense to argue that the things which can only be produced by governments or with the help of government subsidies—police protection, air pollution control, public health, mass transit, to name but a few—are not needed or wanted except when the economy is depressed!

The existence of "public goods"—things which privately organized markets systematically undersupply to consumers (even those with adequate incomes)—has been known to economists for at least 20 years. The growing imbalance between the production of "public" and "private" goods and services is the central theme of the work of John Kenneth Galbraith. Yet those who make our national economic policy (and nearly all who advise them), while they see and measure private affluence, are blind to the indicators of public poverty. Or worse, they act as if they believed improvements in public services are only expenditures, never investments in greater national individual well-being.

Modest as it is, a current public employment program took nearly a decade to enact. The history is worth recalling. In 1964 Senator Gaylord Nelson (D, Wisc.) introduced a bill to finance $1 billion worth of jobs in conservation through a nickel a pack increase in the cigarette tax. Sargent Shriver's five-year budget projections for OEO included $3 billion for public service jobs. In 1966, the National Commission on Automation recommended creation of 5.3 million public service "last resort" jobs in order to cushion the impact of what was then perceived to be a technological "twist" in the private sector, away from tasks using unskilled labor. (Ivar Berg and Bennett Harrison have since shown that this fear is exaggerated; it is the credential and experience requirements demanded by *employers* that have become inflated, not so much the technical sophistication of the jobs themselves.)

Then, after the "long, hot summer" of 1967, Senator Joseph Clark and Robert Kennedy, along with Jacob Javits, reported out a modest Emergency Employment Act to provide work (and income) for the poor. It was strongly opposed, especially by the Johnson administration, which argued that with a national unemployment rate of only 3.6 percent, there were surely enough jobs already for "those who really want to work." The Clark-Kennedy bill never reached a vote; a Republican-sponsored, watered-down version was defeated by five votes.

In 1968, in cooperation with the Conference of Mayors, the National Urban Coalition commissioned a study to determine the net new jobs in a dozen categories of public services that could be created in cities of 100,000 or larger if new funds were available. In these cities alone, and at a conservative estimate, 300,000 new positions could have been created, ranging from semi-skilled to skilled and professional. The rub was that the cities did not have the revenues to provide them.

The recession of 1970–71 and the high unemployment of such politically articulate (or at least highly visible) groups as returning Vietnam veterans and aerospace workers, put new life into the idea of a public employment program. By the fall of 1970 it had been endorsed by the National Urban Coalition, the AFL–CIO, and the National Conference of Mayors, and the employment and Manpower Act of 1970, containing a $2 billion authorization for public job development, passed both houses by a wide margin. The President vetoed the bill in December, arguing that it would create only "make-work WPA-type" jobs. Public jobs, said the President, are less "real" than private jobs.

A month later, January 1971, the Labor Department released its estimate of the December unemployment rate: six percent. Perhaps this figure carries some of the symbolic power for Americans that unemployment rates of three percent seem to carry in European nations. In any case, some political response was now mandatory. So when Senator Nelson again introduced public employment legislation (tailored to meet Nixon's objections to a "permanent" program, with a "trigger" mechanism so that the program would operate only when national unemployment exceeded 4.5 percent and would shut off when it fell below that threshold), even the minority leader in the Senate backed it, and in August of last year, the Emergency Employment Act became law. It provided $1 billion a year to state and local governments to create jobs for the unemployed and underemployed, with preference to be given to veterans.

What has happened? About 150,000 jobs have been created under the provisions of the EEA. But nearly five million people are still out of work, and at least 20 million more are underemployed. Recognizing the inadequacy of the present program, Senator Alan Cranston (D, Calif.) this spring introduced legislation for a $10 billion annual public employment program, tied not to the increasingly ambiguous unemployment rate, but to the national need for jobs at decent wages and an adequate supply of public goods and services. And last month, Senator McGovern suggested creating one million public service jobs, as an alternative to the perpetration of welfare dependency for those able to work. In hearings held before the Senate manpower subcommittee in April, four economists—Galbraith (Harvard), Robert A. Gordon (Berkeley), William Fellner (Yale) and Bennett Harrison (Maryland) arrived at remarkably similar forecasts of the probable impact of such legislation. The following estimates are based on their testimony.

Ten billion dollars at $8000 per job (including overhead and capital equipment where needed) would create 1.25 million jobs. According to recent evaluations of the Emergency Employment Act operations, and contrary to initial misgivings, only about 15 of every 100 subsidized jobs are filled locally by someone who was *previously* employed by the city. Thus, the $10 billion would actually result in a *net* increase of one million new jobs.

The Bureau of Labor Statistics estimates that a million new state and local government jobs will generate about 400,000 additional *private* sector jobs, through local government purchases of supplies and services from local businesses, construction contractors, etc. From 1962 through 1971, employment in the private sector *actually* created by state and local government purchases of goods and services expanded by 58 percent, while jobs overall increased by only 19 percent. The purchasing power of these 1.4 million workers will create about 600,000 *additional* jobs over the succeeding 18–24 months, for a total of two million jobs in all. We don't know for sure how and where these jobs would be allocated, but if we apply the current average mix in the economy (roughly four-fifths private, one-fifth public), then 480,000 of these additional jobs will be in the private sector, with another 120,000 government jobs (as governments at all levels expand certain activities *without* subsidies in order to meet the increased effective demand of citizens whose incomes have already risen, due to the subsidized program).

What we're projecting, therefore, is that a $10 billion federal investment would create one million jobs in state and local government, 880,000 jobs in private industry and 120,000 additional public sector jobs, spread over the federal, state and local levels. If half of the initial ("planned") one million jobs are reserved for people now getting unemployment compensation and/or welfare (at $2000 per person), then the US Treasury will save one billion dollars a year. Assume also that 20 percent of the other million jobs are (through a combination of federal pressure, presidential exhortation and local political organizing) allocated to such citizens, there's an additional Treasury saving of $400 million. The overall net saving in unemployment insurance and welfare payments might reach $1.4 billion per year.

Most econometricians believe that an extra $10 billion of deficit spending will bring $20 billion of additional gross national product. Given the average effective federal tax rate of 20 percent from all sources of income, this investment would return an annual flow of some $4 billion to the Treasury. The net social cost of a $10 billion annual program after 18–24 months (assuming deficit financing) would be only $4.6 billion ($10 billion minus $5.4 billion). The net benefits would be two million additional jobs at nonpoverty wages, $20 billion in additional GNP, and the added public goods and services that 1.12 million additional public employees could produce.

Economic forecasts, especially those based on simple averages rather than detailed models, are always subject to wide margins of error. Moreover, there is a real trade-off between two important results of the policy we have outlined; the number of jobs developed and the degree of training imparted on the job. The greater the latter, the higher the overhead costs, so that for a given expenditure (such as $10 billion per year), the fewer will be the number of jobs created Nevertheless, a forecast of $4.6 billion cost for a return of 2 million jobs and $20 billion in additional goods and services (most of them "public" in nature) seems reasonable.

If that were achieved, the national unemployment rate would have been cut nearly in half. Its impact on underemployment would be much smaller (although existing low-wage private sector workers might find their competitive position improved somewhat by the expanded demand for unskilled labor in th public sector). But it would be a powerful start on "reordering of priorities."

A public employment program could be usefully combined with many other economic and manpower development policies. In 1970, the Supreme Court rule (in *Griggs v. Duke Power Co.*) that educational credentials and written examination scores could not longer be used by employers as hiring instruments unless they could be shown to to be statistically "valid," that is, significantly predictive of success on the job. The government might usefully combine a large-scale public employment program (which creates enough jobs to be able to allocate at least a portion to many different income and racial ethnic groups with a concerted effort at real civil service reform, aimed at eliminating the "credential barrier" that now locks so many disadvantaged workers out of government jobs.

Administrators of the public service employment program could give much needed help to the community control/local economic development movement which is growing in black and white areas (rural as well as urban) by allowing Model Cities and Community Action agencies, community development corporations and rural cooperatives to become "prime sponsors" of federal job development grants. In this way, ghetto and poverty area residents would be employed to produce and deliver public services to the residents of *their* communities and to rebuild the "infrastructure"—streets, lighting, power lines, sewers, subways—of *their* cities and towns.

Finally, planners might—and, we think, should—build into the employment program *from the start* a carefully structured on-the-job training component, so that those who are hired will be prepared (although not forced) to move "up and out" as other opportunities present themselves. This would also help to avoid inflationary bottleneck which could be created by a shortage of skilled labor as the employment program drove the unemployment rate down below four percent.

A public service employment program of the scale proposed here would represent a qualitative shift of emphasis. Part of the "blame" for personal misery, frustration and lack of fulfillment would be shifted from the individual to the economic system, where it belongs. We would be moving in the right direction—the direction indicated so long ago at the base of the Washington Monument by Martin Luther King.

NOVEMBER 1, 1972.

LETTER TO THE EDITOR,
New Republic,
Washington, D.C.

DEAR EDITOR: There are two errors contained in our recent article "Public Jobs/Public Needs", (NR November 4, 1972). We would like to take this opportunity to correct them.

The number of full time year round workers whose wages fell below $7,000 in 1970 was indeed 10.9 million but this is 30 percent of the full time year round labor force not the total labor force.

The forecast that a 10 billion public employment program a la Cranston would (with a multiplier of 2) "cut unemployment nearly in half" is also incorrect. Two million extra jobs would surely have a sizable impact on the unemployment rate, but the precise effect is hard to forecast since—as new jobs are generated by a growing economy—more people enter the labor force in search of work. If public employment is implemented without complimentary expansionist fiscal and monetary policies (or if accompanied by "compensatory budget cutbacks" or offsetting taxes) then its net effect on overall unemployment could be virtually nil. That is why we stipulate "deficit spending" as a means of financing the Cranston program.

Sincerely yours,

BENNETT HARRISON,
HAROLD SHEPPARD,
WILLIAM SPRING.

[From the New York Times Magazine, Nov. 5, 1972]

CRISIS OF THE UNDEREMPLOYED—IN MUCH OF THE INNER CITY 60% DON'T EARN ENOUGH FOR A DECENT STANDARD OF LIVING

(By William Spring, Bennett Harrison and Thomas Vietorisz)

What is wrong with the economies of America's big cities is at best poorly measured by the conventional unemployment rate published monthly by the U.S. Department of Labor and dutifully reported in the press and on television. The problem is that even those who work—or a very large proportion of them—do not and cannot earn enough money to support their families. They work for a living but not for a living wage. Many have long known this fact; certainly, the poor themselves. Now we have documentary evidence that will help bring the picture into focus for others. This lack of perception, this inability of the nation to understand the nature of the problem itself helps to explain our failure to come to the rescue of the cities.

The evidence consists of startling findings now available from surveys conducted by the Census Bureau in 51 urban areas as part of the 1970 Census, findings that should eventually lead to better solutions than welfare or income maintenance and should in the long run contribute substantially to the nation's over-all economic prosperity.

Within the neighborhoods covered by these surveys, more than 60 per cent of all workers did not earn enough to maintain a decent standard of living for their families, and 30 per cent could not even earn a poverty-level income. Of course, many of these areas are among the most depressed portions of the city, and do not represent the whole. If half of the entire city population were earning less than subsistence, what is now a crisis would long ago have become a catastrophe. But the samples cover much more than the misery in the ghetto proper. They report on conditions that affect at least a third of the total city population. Thirteen million people in all live in the areas surveyed, 49.5 per cent of them black; 47.9 per cent white, including 11.8 per cent of Spanish background; and 2.6 per cent of other racial or ethnic origin. The figures reveal economic conditions of a submerged group that spreads out from the black and brown ghettos into the neighborhoods of the white working class.

The basic findings emerge from an analysis of the Census Employmnet Survey (C.E.S.), designed by the Bureau of Labor Statistics (B.L.S.). Some 68 volumes of raw statistics from the C.E.S. have been published, but the Administration has chosen not to analyze the numbers, or even to calculate the simplest indexes of economic well-being for these 51 cities. Consequently, the staff of and consultants to Senator Gaylord Nelson's Subcommittee on Employment, Manpower and Poverty have undertaken the task of digging through these invaluable statistics to develop a picture of the state of the inner-city economy in 1970. This effort has culminated in the measurement of "subemployment"—the key to understanding what the urban crisis is all about.

UNEMPLOYMENT—SUBEMPLOYMENT

The development of the new subemployment concept began in 1966 when former Secretary of Labor Willard Wirtz decided to take a close look at the relation between the job market and poverty in the nation's inner cities. His staff conducted door-to-door sample interviewers in 10 ghettos in eight major cities. In 1967 the B.L.S. set up a task force under the direction of William Milligan to carry on research in a number of large ghettos. The team experimented with new ways of interviewing the poor, new kinds of questions, new insights from academic research, and it made use of the experience gained in administering the 1966 survey. In 1970, Milligan's group managed to have its questionnaire added to the regular Decennial Census form in 51 large cities and 9 rural counties. (Shortly after completing its work on the survey, the group was disbanded by the Nixon Administration.)

The failure of the social and economic system to provide people with adequate wages is hidden from view under the surface of traditional unemployment statistics. These statistics are excellent for measuring fluctuations in the economy but they do not go far enough as measures of the labor market. To gauge the degree of labor-market failure, it is necessary to know not only the magnitude of overt unemployment, but also the extent of worker discouragement ("discouraged workers" are those who have given up looking for jobs); the number of people who can find only part-time work; and the number who hold jobs but at inadequate pay. The subemployment index attempts to encompass all these factors.

In 1970, nationwide unemployment amounted to 4.9 per cent of the labor force (since then, it has hovered close to the 6 per cent mark month after month). In the C.E.S. central-city survey areas, the unemployment rate in 1970 was 9.6 per cent. This is very high. In France, the labor unions took to the streets last February when unemployment reached 2.6 per cent. But as high as it is here, the employment rate alone falls far short of revealing the full extent of urban crisis. When we look at the official definition of unemployment, we note that one cannot be "unemployed" unless one is currently looking for a job. It does not count those people who have given up looking for jobs after failing repeatedly to find work.

How many such discouraged nonseekers are there? The C.E.S. enables us to make a dependable estimate. For example, in New York City, the conventional unemployment rate in 1970 averaged 8.1 per cent in the survey areas (compared with 4.4 per cent for the labor force of the city as a whole), but jumped to 11 per cent when the discouraged workers were added.

This adjustment begins to give us a picture of realities of economic life at the bottom of a city's social structure. But to this we must now add another category—part-time employed workers who would like to work full time but cannot find full-time jobs. The C.E.S. survey carefully separates people who wanted to work only part time from those who wanted to work full time, and in this way adds (again, for New York) another 2.3 percentage points to our emerging index of urban poverty. In other words, adding together the officially unemployed, the discouraged jobless and the involuntary part-time workers, we can now account for at least 13.3 per cent of the labor force in the New York City sample areas.

Our adjustments have nearly doubled the official unemployment figures for the sample areas and tripled the national rate of unemployment. But, still, they are far from complete. The last and most important part of the index is the worker who does have a full-time job but then does not earn enough to make ends meet.

What is meant by "making ends meet"? What exactly is poverty? Where does one draw the line between a decent minimum and an indecent destitution?

The answer is not to be found in any simple set of criteria. Families know whether they are just poor or destitute, and act differently, according to their feelings. Poor families struggle; many of the destitute surrender. Once a family surrenders, it does not help to point out that it is "well off by the standards of Calcutta." The family does not live in Calcutta, but only a stone's throw from Fifth Avenue. Nor does it help to point out that it can provide its needed protein, vitamins and calories by eating beans or dog food, even if that is technically correct. The destitute will not act in ways that affront their basic humanity.

Can we identify the watershed between "decent" and "indecent" standards of living? The most careful (and reputable) attempt has been an item-by-item enumeration of consumption needs undertaken by the B.L.S. Since 1967, it has published a three-level list of family income needs under conditions as they exist in different cities in the United States—the lower-level income before taxes amounted to $7,183 for a family of four in New York City in the spring of 1970. In the fall of 1971, it was $7,578. (The bureau placed the middle level for an urban family of four at $12,585 in 1971, the upper level at $19,238).

The question of the line between decent poverty and destitution is clouded by the existence of an official poverty line. In 1964 when the Social Security Administration went about defining a poverty line for the War on Poverty, it began with a Department of Agriculture estimate of the absolute minimum needed to feed a family of four a survival diet and multiplied by three. Food it figured, ought to be about one-third of a poor family's expenditures. The administration came out with a figure of $3,128 for a family of four at 1963 prices; it set the official line at $3,000. Since then, the poverty

line has been adjusted annually upward in line with the Cost of Living Index. The level reached $4,000 in the fall of 1971, but, still, it does not represent a true measure of need.

The B.L.S. lower family-income figure of $7,183 is much sounder. It has been recognized as such by the Congress, which, in passing the Child Development program last fall, wrote the B.L.S. figure into the legislation as the level below which services ought to be provided for a nominal fee. In extending authority for wage and price control last December, Congress prohibited controlling annual wages below the B.L.S. lower amount.

That amount is based on actual minimum costs of living in the urban areas studied. In 1970, the average family of four in New York City, to meet the B.L.S. lower standard, had to pay about $28.65 a week in various Federal, state and local taxes, or $1,490 a year; $100 a month for rent (only enough for a barely habitable apartment) or $1,200 a year. To keep it up—that is, pay for repairs, cleaning materials, curtains, furniture repair, etc., the family would run into costs of at least $15 a month, or $183 a year. Other living expenses: $40.20 a week for food, or $2,091 a year; $8.32 a week for transportation, or $433 a year—which includes the cost of necessary public transportion for the family plus the cost of buying and operating a six-year-old car; $15.59 a week for medical bills, or $811 a year; $7.25 a week, or $377 a year, for other family consumption such as movies, recreation, TV's, radios, cigars, pipe tobacco, etc., and $6.83 a week, or $347 a year, for other costs such as life-insurance premiums and charitable contributions. The expenses vary, of course; one category may be higher one month, and lower the next. But the B.L.S. researchers who checked prices in the city found total annual expenses, for living at the lower level, to be $7,183.

If we accept the B.L.S. figure of $7,183 as the least a famly of four must earn to keep its head above water in New York City in 1970 (the B.L.S.'s national urban average for 1970 was $6,960), what does this require for the family's income earner? If he or she works 50 weeks a year, 40 hours a week (which is itself unlikely in the inner city), the answer is $3.50 an hour. Here is where we find the final link in our chain of employment statistcs. For when we add those individuals who earn less than $3.50 an hour to the discouraged nonseekers, the involuntary part-timers and the officially unemployed, the statistics take a horrifying leap. In the seven New York City sample areas, the subemployment rate rises to between 39.9 per cent and 66.6 per cent of the labor force. Indeed, the average for all the sampled areas in the country comes to 61.2 per cent.

That the problem extends beyond the hard-core ghettos is demonstrated by statistics gathered for a recent New York City Planning Commission survey of industrial zones in all five boroughs of the city. The evidence shows that 60 per cent of all manufacturing establishments in the city pay median wages below the $3.50 threshold. If the median wage of an establishment is under $3.50, then more than half of its workers must be earning less than that amount.

Suppose—one may ask—that more than one member of the family works? Does each member need $3.50 an hour for the family to achieve the threshold of decent poverty? It is true that, nationwide, the average family has 1.7 full-time equivalent workers. But the majority of low-income families in America are unable to find enough work to occupy more than one "full-time-equivalent" member. In 1970, the average number of "full-time-equivalent" workers per low-income family was less than one! In other words, one person (usually the male head) worked nearly (but not totally) full time, or several family members worked, but very sporadically. It is therefore useless—and cynical—to tell those for whom jobs do not exist that they could relieve their poverty if only they would be more willing to work. Indeed, the proportions of C.E.S. four-person ghetto families—and just four-person families—with gross earnings of less than $7,000 in 1970 was also 60 per cent.

Even if we set the threshold level of subsistence at the official poverty line of $2 an hour, the Census Employment Survey shows that the seven New York City sample areas still had subemployment rates ranging from 19.3 to 27.9 per cent (the 51-city average was 30.5 per cent). Thus, even if we suppose that it takes only $2 an hour (or $4,000 a year) to hold a family of four together, we still have not solved the problem because the main reason for poverty in New York—and by extension elsewhere—is simply that not enough people can earn even this meager amount.

THE CONSEQUENCES OF HIGH SUBEMPLOYMENT

How do people in the central cities survive? They struggle for what income they can get, from jobs where possible; from welfare where necessary. They line up for manpower training programs, especially those that pay stipends. The money helps, but the training seldom leads to jobs at decent pay (a recent study of manpower programs in four cities concluded that ". . . the average enrollee who worked following training [and not all the "graduates" were so fortunate] was still earning at a rate of $3,000 per year"). The Employment Service cannot make much difference either, given the structure of the job market, 40 to 60 per cent of Employment Service nonagricultural placements in 1970 were in jobs paying less, on the average, than the minimum wage. Since "legitimate" pursuits do not yield adequate incomes, there is inevitably a good deal of economic crime. When great numbers of young workers are unable to earn enough to support wives and children in basic decency, they become demoralized and families fall apart and the welfare rolls soar. Property is not kept up, because it cannot be. Neighborhoods deteriorate, the circle of poverty and despair closes on itself and it eventually creates an enormous drag on the entire economy.

This is the urban crisis. And it is the unemployment rate which helps us to see the connection between the structure of the labor market and continued poverty and despair—a connection that is masked by the conventional unemployment rate. Last January, on the C.B.S. Evening News, commentator Eric Sevareid suggested that the measured unemployment rate actually overstates the severity of our labor market problems, presumably because it gives equal weight to women and teen-age workers, whose unemployment Sevareid (and many others) apparently believes to be less socially consequential than the unemployment of adult men. In fact, as we have seen, the conventional unemployment rate seriously understates the extent of our difficulties. Subemployment—the inability to make a living in our big cities—is from three to six times as great as simple unemployment.

These differences are hardly academic. So long as official statistics made it appear that only 5 to 10 per cent of the labor force was in trouble, even in the ghetto—or in other words, that 90 to 95 per cent were doing all right—it was possible for some to attribute the rise in the welfare rolls to laziness and immorality, and for others to perceive the fragility of the black family as a cause rather than as what is now easily seen to be a virtually inevitable consequence of sporadic low-paying employment and poverty.

In formulating an antipoverty strategy, the Government in the nineteen-sixties ignored the question of inner-city job supply, pay scales and the labor market. Its programs were built on the assumption that the cause of poverty lay in the disadvantaged condition of individuals, not in the failure of the job market. Thus, Head Start for the children, antidiscrimination and legal services for the grown-ups, community health service for the sick and, through Community Action and Model Cities agencies, a voice in city affairs for everybody. All these programs were expected to make more of a difference.

That they have made urban poverty somewhat less oppressive, that they encouraged the poor to organize and that they provided help to thousands of individuals cannot be doubted. But they have not begun—and cannot begin—to reach to the heart of the matter.

INCOME REDISTRIBUTION

What is the answer? One approach advocated across the political spectrum at one time or another from President Nixon to George Wiley of the National Welfare Rights Organization (NWRO) has been to close the income pay through transfer payments. "Welfare" would be provided not only to those who cannot work, but also to those who do work but who earn poverty-level wages, or at least to the very poorest of them.

It is estimated that the cost of raising the incomes of all Americans to the $4,000 poverty level would be "only" $12 billion. President Nixon's original welfare bill would have provided $2,400 in welfare to the nonworking poor and partial subsidies for working families earning up to $4,320. Wiley demands $6,500 for all. Nevertheless Nixon and the N.W.R.O. suported the same principle alleviation of what we now know to be chronic subemployment through income redistribution without any attempt to restructure the labor market. This kind of income transfer, if it could be achieved, would be a big step forward from the original poverty program's social-services strategy. At least, it recognizes the problem as lack of money, not a shortage of social workers. But the concept is so unpopular with the bulk of America's workers that adequate family income through transfer payments is politically unattainable.

Most Americans continue to believe (as they have been taught to believe) that there are enough "good jobs" in the economy to go around if a man really wants to work. What the blue-collar worker does not understand is that however hard-pressed he may be by taxes and the rising cost of living, labor-market conditions for the poor are much worse. The high rates of subemployment reveal a sharp division between conditions in what a growing number of young economists refer to as the "primary labor market," where unionized, relatively well paying, stable jobs are available, and a "secondary labor market" in the inner city, characterized by low wages, unstable opportunities for work and the absence of unions.

It is unfair, however to ask the working class to shoulder the burden of the lower class. George McGovern's strategists were at first deaf to the strongly expressed sentiments of the blue-collar workers concerning welfare, and they hoped to override those sentiments by appeals to high moral principle and promises to take the money only from the rich. But McGovern, of course, eventually saw the political light and withdrew his plan, as, for all intents and purposes, it appears Nixon has done, too.

If an adequate income transfer system is politically impossible for the present, what is to be done? What can be done? For the working poor, for the blue-collar workers and for much of the middle class as well, it is far better in the long run to transform or at least sharply upgrade the secondary labor market through a series of programs aimed at full employment at decent wages. If this were achieved, then welfare reform for those who cannot work would be a simple matter.

PUBLIC EMPLOYMENT AND ECONOMIC DEVELOPMENT

What we need first is a massive public-service employment program. The case for this has been made repeatedly. Opinion polls show strong public support, and a vast backlog of public-service work needs to be done. An important feature of public employment is the pay; in the Census Employment Survey, across all the 51 cities, the proportion of public jobs paying below $3.50 an hour is only half the corresponding proportion in the private sector. Those now subemployed could provide the additional services by working as policemen and firemen, teachers' aides, health workers, or in conservation, transit, recreation and antipollution jobs. Congress, led by Senator Nelson, approved overwhelmingly the beginnings of such a program—$4.5-billion over three years—in 1970, only to have it vetoed by the President. In 1971, a $1-billion plan (enough for about 180,000 jobs) was implemented under the Emergency Employment Act, which has proved to be popular with state and local officials and is administratively workable. Senator Alan Cranston has introduced legislation, now pending, to provide $10-billion to create more than a million public-service jobs, and jobs in private industries contracted for by the Federal Government to produce and distribute public goods and services, such as parks, housing and transportation facilities. In August, Senator McGovern proposed an effort of similar dimension for welfare recipients. A program on that scale is clearly needed.

Second, we must undertake large-scale regional programs of economic development. It is a little-known fact that, aside from a highway program in Appalachia, the entire budget of the Economic Development Administration in the Department of Commerce is now below $300-million a year, less than we spend on Head Start. The program was originally conceived as multibillion-dollar long-range planning for projects—public and private—in water supply, power, sewage, etc. The United States has funded more impressive—and more costly—economic development programs since World War II in many foreign nations than we have here at home. President Roosevelt boasted in 1945 that the Tennessee Valley Authority cost only the equivalent of three days of the fighting in World War II. We need to develop in the nineteen-seventies a program of regional economic development to match that of the thirties.

The nation must provide adequate financial support for economic development in its inner cities and rural areas. Many community leaders who began with protest in the early nineteen-sixties and later gained management experience with the antipoverty training programs are now organizing for economic development and self-determination. The movement received recognition and support from Senator Robert F. Kennedy, and legislation he wrote with Senator Jacob Javits still provides a measure of support for programs in Bedford-Stuyvesant in New York and some 38 other urban and rural community development corporations. Several hundred additional communities have applied for funds. These corporations not only serve to pull together their own communities but also provide a channel for downtown businesmen to provide financial and technical assistance to ghettos. Out of this comes a new social structure for the undertaking of public and private projects: new public buildings, low-cost housing, neighborhood rehabilitation, new businesses, banks, supermarkets and factories.

Finally, we must fashion a policy that attacks low-wage jobs directly. If we had full employment and thus steady work, a minimum wage of $2 an hour would raise each worker's family to at least the poverty line. The present $1.60 an hour set in 1966 would be $2.06 an hour if merely adjusted for the rise in the cost of living. Orthodox economic analysis focuses entirely on the supposed short-run loss of jobs for low-skilled workers that might result from higher minimum wages. What orthodox analysis ignore is that higher wages force producers to adopt more productive technologies, thus enabling them to pay the higher wages. In fact, whenever technological progress has occurred in the past it has in the long run always produced more jobs than it displaced. We can cope with short-run job loss through retraining and relocation subsidies for workers and technical and capital assistance for business.

Military demobilization need not immobilize our efforts to get the country moving again. On the contrary—it can help to revive it. Hard data exist (produced, in fact, by the Nixon Administration) which show that $1-billion of Federal expenditure in rural and urban development creates up to 20 per cent more jobs than $1-billion spent on military and "defense" procurement.

It will not be easy to move beyond the rhetorical commitment to full employment at decent wages. But policies to achieve these ends have this advantage. Whereas: welfare and other income-transfer schemes divide us—workers on one side and the poor with their intellectual and upper-middle-class supporters on the other—programs to achieve economic development and full employment at decent wages can unite us. Businessmen and workers alike stand to gain from them. We can aid the poor while helping the rest of the nation resolve its wide range of domestic problems, from the crises in the cities, to the lack of proper regional development, to technological obsolescence, to foreign competition, to the general quality of American life. The only way the revenues needed to meet these domestic challenges can be raised, in fact, is through full use of all our resources. The Congressional Joint Economic Committee estimates that we lose $12-billion to $15-billion a year in Federal tax revenue for every 1 per cent of unemployment. So in the long run these programs will be saving us money, instead of taking it from us. European nations have maintained unemployment at or below 2 per cent for a decade, 3 per cent is not out of the question for us. Wage and price controls will be needed to block inflation but they would have to be more stringent on the price side than those now in effect. Perhaps President Nixon's initative in wage and price controls will prove the domestic equivalent of his voyage to China; opening up what was once impossibly dangerous territory.

STATEMENT OF L. PATRICK GRAY III, ACTING DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, yesterday, February 28, 1973, the Committee on the Judiciary began hearings on the nomination of L. Patrick Gray III to be Director of the Federal Bureau of Investigation.

Mr. Gray's opening statement before the committee was, in my view, simply superb. It set forth the record of Mr. Gray during his term as Acting Director and, in eloquent fashion, identified a few of the nominee's basic beliefs which would shape his actions during the months and years ahead.

It would have been very helpful if every Member of the Senate could have been present to hear this testimony. So much of what has been said about the FBI and Mr. Gray has provided far more heat than light. The nominee's own presentation, on the other hand, was one of the most illuminating statements I have ever been privileged to hear.

I ask unanimous consent that the statement be printed in full in the RECORD immediately following my remarks and commend it to the attention of my colleagues.

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

STATEMENT OF L. PATRICK GRAY III

Mr. Chairman, I am privileged and honored to appear before this distinguished Committee of the United States Senate.

The President has seen fit to send my name to the United States Senate, and the Senate now has the responsibility . . . and *for the first time* the opportunity . . . to advise and consent to the nomination of the Director of the Federal Bureau of Investigation.

The President has made his decision and now the United States Senate sets out to discharge its responsibility to examine my qualifications and work its will in reaching a decision.

With regard to my background and professional qualifications, Mr. Chairman, I have sent to each member of the Committee a copy of my responses to a Personal Data Questionnaire of the American Bar Association prepared by me when it was believed that I might be considered for an appointment to the Federal Judiciary. I thought these might be helpful to the Senators, since the questions of the ABA were searching and my responses detailed and documented with exhibits.

Also, for the first time, the Senate has the opportunity to inquire into and evaluate the manner in which a man other than John Edgar Hoover has discharged the responsibilities and exercised the power of this great office.

But first, Mr. Chairman, I wish to state a few of my basic beliefs that I consider to be directly related to the manner in which I have performed my duties these last ten months and in which I will perform my duties in the months and years that lie ahead.

I believe in the United States of America, not only as a nation and a people, but as an ideal that has helped to re-shape the world.

I believe in the democratic form of government, and in the sovereignty of the people.

I believe in a government of law, enacted by the people through their representatives, and not in a government of men. I believe that where this kind of law ends, tyranny begins, and I believe that the people have the right and the duty to oppose such tyranny.

I believe that individual Constitutional rights are basic to our society and our form of Government, and I include not only the rights of the accused to the full protection of the law, but also the rights of all citizens to have that same protection.

I believe that it is possible for popular government to protect itself from overthrow without denying basic freedoms, and I consider that one of the principal responsibilities of the FBI and its Director is to prove that this can be done.

I believe in the FBI as a vital American institution. When it is criticized, I will look into the charges to determine whether they have any validity. And if they do, I will make the changes necessary to maintain the FBI's posture as the finest investigatory agency in the world. If they are not valid, I will defend the FBI with all the personal energies and capabilities at my command.

I did not ask the Attorney General or the President to place me in the position of

Acting Director on May 3, 1972 . . . nor did I ask anyone else to intercede for me. I believed then and I believe now that the position of Director of the Federal Bureau of Investigation seeks the man and not vice versa.

I said then and I say today that my appointment as Acting Director was accepted by me and interpreted by me as a return to the service of my country . . . a return to the service of all the people of the United States whom I had served so long in the United States Navy without regard to party, to politics, or to ideology.

I am aware of . . . and humbled by . . . the responsibilities, as well as the power, of the office I have occupied during the last ten months. But, I am not afraid of the responsibilities, nor do I fear to use the power in the national interest and in keeping with Constitutional safeguards. Every decision I have made has been considered carefully, and I have approached each with a sense of humility.

The record of performance is there. I accept full responsibility for that record.

No one can doubt the tremendous challenge inherent in following the footsteps and building on the legacy of John Edgar Hoover, whose personal vision and ideals, and whose leadership, made the FBI an institution respected and honored by millions of our fellow citizens.

Thomas Jefferson said of Benjamin Franklin, "I succeed him: no one could replace him."

I could and do say the same about Mr. Hoover. I follow him in a position of great responsibility to our people and to our Nation. He . . . together with the men and women of the FBI who served with him during the years 1924 to 1972 . . . created and built a magnificent organization devoted to the service of our country.

I welcome this opportunity to set forth for the Committee . . . the Senate . . . and the American people . . . an accounting of my decisions and my actions . . . how I went about learning at firsthand the operations of the FBI . . . examining and evaluating them . . . the changes I have made . . . my viewpoints . . . and the conclusions I have reached about this American original.

Every American is a shareholder in the FBI. Every American has a right . . . I believe . . . to know the frank and candid reactions and views of the man who has held this responsible position since May 3rd of last year.

When I became Acting Director, I made a key decision. I decided *that I would not be a mere caretaker, making no waves and taking no actions.* Rather, as Acting Director, I would not only make those decisions necessary for the day-to-day conduct of FBI operations but also those long-term decisions essential to the continued effectiveness and efficiency of the organization.

Mr. Hoover's death left a serious void. The members of the FBI were stunned and deeply grieved. They were accustomed to strong leadership. I believed that only by taking a positive and active approach, by working closely with the traditional leadership of the FBI, could we come through this critical period of transition.

I approached my assignment with deep feelings of respect and admiration for the FBI. Yet, at the same time, there were no stars in my eyes. *I had my feet on the ground and was ready to ask the tough questions.*

It is true that I had no professional law enforcement experience prior to my entry into the FBI. I had not been handicapped or predisposed in any way—and, strange as these words may sound, I think there is sound basis for this statement. The FBI is an investigative agency accustomed to working on a daily basis with inquisitive lawyers and responding to tough questions. The law enforcement expertise is there in great abundance, and that expertise has responded magnificiently to my appearance on the scene and to my brand of leadership.

Basic to my approach, however, was a desire to learn . . . to keep an open mind . . . to *become a part of* the FBI as a living, active, human organization.

What made it tick? What were the sinews, muscles, and nerves that held it together? What were its problems? Who were the FBI people, both at Headquarters and in the 59 Field Divisions across the United States? How could I *earn* the respect of these dedicated men and women, so that I could lead them effectively and so that we could work together as the FBI had always worked—as a team, as a "we" organization.

On my very first weekend in office, I developed a series of topics to be examined by me and the senior officials of the FBI . . . which I later distilled into 13 *avenues of inquiry* . . . dealing with such topics as organized crime, subversion, narcotics traffic, and espionage. A copy of these avenues of inquiry, Mr. Chairman, is appended as Exhibit "A" to this statement.

Thus was launched the first group of a series of studies that continue to this day and will be continuing under a new Office of Planning and Evaluation far into the future.

I have been privileged . . . *as no outsider had ever before been so privileged* . . . to observe the performance of the FBI at first hand . . . to direct its performance . . . to question its performance . . . and to evaluate its performance.

It is a rare tribute to Mr. Hoover . . . and to the men and women who built the FBI with him . . . for me to be able to say to you today that this magnificent organization of human beings responded with a zest, an enthusiasm, and with an all-consuming fidelity to perfection that is unparalleled in my experience.

As the days passed, the position papers and study papers achieved a degree of excellence that seemed to challenge me, my own personal staff, and the senior executives of the FBI to find any point . . . a single topic . . . that should have been covered and was not.

These early days formed the most intensive educational experience I have ever encountered, stimulating and filled with insights. I asked the men and women of the FBI to "show me"—and, beyond all expectation, they showed me wherein the FBI's reputation resides.

At the same time, I wanted to get to know them personally. It was no graven image or historical mausoleum whose leadership I inherited when I moved into FBI Headquarters. It was a working organization. It was a human institution.

I made a special effort to visit our Field Divisions . . . and to date I have visited all of them except one. I visited the people of our Headquarters Division here in Washington. I talked to these dedicated men and women, to the Special Agents in Charge of the Field Division, to the Special Agent who workers the cases on the street, to the stenographer, to the file clerk. I met with them. I wanted to see them . . . to talk to them . . . and I wanted them to see me. This was a period of transition, a period of trial, evaluation, and measurement *on both sides.*

I consider these visits to the Field and to our Headquarters Divisions to be of overriding importance to the effectiveness of our overall effort and to our morale. I have every reason to believe that the men and women of the FBI share this view.

I moved into the FBI with a leadership philosophy that comes down, fundamentally, to a choice between the meat axe and an attitude of mutual trust and confidence. A new man can enforce control . . . which is where the meat axe comes in . . . or he can *build confidence,* confidence up and confidence down. He can run a penal colony . . . or a living, breathing, human organization, with all the risks that entails and all its incomparable strengths. I chose the latter course, and I am proud to report that the morale in the FBI is high, and I am pleased to say that it has always been high.

Very naturally, as the Acting Director, I based my conduct of the operations of the FBI on certain principles—principles that have set the tone for my ten-month administration.

I would like to share some of them with you . . . for these are principles that affect not only the FBI internally and operationally, but affect its role in our free society.

First, I am determined that the FBI will remain completely and absolutely non-political. This is one of the pillars of its historic strength. This is a policy that enables the FBI to perform efficiently regardless of which great political party holds the reins of government . . . a policy that enables the FBI to carry out its responsibilities without the pull of political allegiance or the thrust of political influence.

When I met with President Nixon last May at the time of my appointment as Acting Director he gave me only one instruction, and he re-iterated it on the 16th of this month—*that the FBI and its Director continue to stay out of politics and to remain free of politics.*

I was not at all surprised to receive this instruction. It typifies our past relationship—which, for a decade and more, has always been essentially professional . . . on my part, as a lawyer and administrator. It is going to remain that way.

I pledge to the members of this Committee . . . to the Senate . . . and to the American people . . . that, if the Senate advises and consents and the President appoints, I will cause the FBI to continue to exercise the highest degree of professional competence in the interest of our Nation and *all* its people. At no time will political considerations or influence . . . in any shape or form . . . alter or guide my decisions or the activities of the FBI.

If I am unable to persevere in this determination for any reason—if my loyalties to the Nation's elected leadership, to the Constitution, and to my job ever come into conflict—I will resign at once and return to my beloved law firm in Southeastern Connecticut.

In following another operating principle—I have tried to open the windows, so to speak, to give the public and the news media an opportunity to see a little more of the FBI's internal workings, not just its final accomplishments.

I happen to believe . . . with Thomas Jefferson . . . that our democracy is a very fragile and precious form of government, and I believe that it has lasted all these years because an interested and informed electorate has had confidence in its institutions. If the American people are informed of the facts, they can be counted on to make the right decisions and support the right decisions most of the time. And they become informed primarily through a free press, reporting objectively and factually.

I realize that the FBI cannot live in a fish bowl. We are an investigative agency and an intellingence agency. Constitutional due process and national security considerations demand a measure of secrecy for the protection of individuals, to protect the integrity of the investigative process itself, and for the common good, the general welfare of society as a whole.

It is now FBI policy, however, and to the maximum extent possible . . . to furnish information to the news media . . . to answer

questions . . . to allow them to have a first-hand look at some of our activities, in the hope that such a policy will enable them to better understand and to report to the American people the facts regarding FBI operations.

If the American people are not informed, or are misinformed, some of the blame must necessarily rest with us. We are making the effort and will continue to make the effort to work with, not against, the press.

The Committee might be interested in knowing that during the past 10 months I have met with more than 1,000 members of the fourth estate representing all segments of the media. I have met with a large number of them in my office in head-to-head situations and in groups; I have talked to them over the telephone; I have answered their inquiries at press availability conferences. On my visits to our Field Divisions I have specifically announced in advance that I would be available to any interested member of the press.

I have also undertaken to make myself available through public appearances in various parts of the country—before law enforcement, civic, church, educational, and business groups. I believed then and I believe now that this is one way in which I can report to the American people about their investment in the FBI. Fourteen of thirty-three of these speeches made through November 17, 1972, and sponsored by organizations other than the FBI or the Department of Justice, were made in connection with my visits to our Field Divisions. During this same period, I also made eight speeches sponsored by the FBI or the Department. I submit, Mr. Chairman, that a fair reading of these speeches will indicate clearly that these were not political or campaign speeches. There was no intent that they be and they were not written to be political or campaign speeches.

Mr. Chairman, I have appended a list of these appearances as Exhibit "B" to this statement.

Also, I have endeavored to talk with individuals who have in the past been critical of the FBI. I believe in personal dialogue . . . in person-to-person discussions . . . where there is some chance, however slight, of correcting misunderstandings. On occasion, these have arisen because accurate information about the FBI has been lacking. I have tried . . . to the best of my ability . . . to correct such misunderstandings. I am also well aware that dialogue is of no avail if the human mind is closed.

Still another operating principle is that the FBI will continue to be a servant of the peopl . . . *all* the people . . . responsive to protecting both the security and the rights of every citizen.

I believe that there is no principle more important to a free society than that government should remain close to the people, and that the dispersion of power in our Federal system is one of the great safeguards of the liberties of a free people.

Fears have been expressed—by a very small number—that the FBI is becoming a national police force . . . that it is infringing on the liberties of the individual citizen. I pledge to this Committee . . . the Senate . . . and the American people . . . that as long as I am its Director, the FBI will not exceed the jurisdictional authority defined by the President and the Congress . . . the FBI will respect the Constitutional guidelines handed down by the Judiciary. In brief, the FBI will not take the law into its own hands.

As for my principles of management, you know that a new man at the top can signal any number of radical changes . . . or his arrival can mean a continuation of the same policies and procedures, with or without careful examination and evaluation.

I resolved to follow a course of *continuity and change* . . . that of continuing the same policies and procedures, with a careful examination and evaluation being conducted simultaneously.

It is not my way to move in with the broad brush of change *if* the organization has been delivering the product coupled with a handsome return on equity. This was the situation in the FBI.

My evaluation of the FBI . . . based on probing and study . . . is clear. The Nation can be proud of the quality of its performance. The men and women of the FBI are complete professionals. Their prime . . . and overriding . . . characteristic is a sustained pursuit of excellence in service to the American people.

It is true, however . . . based on our evaluations . . . that some changes in policies and procedures have occurred. There is nothing discrediting about this. Mr. Hoover . . . to his eternal credit . . built a superb organization uniquely adaptable to change . . . which is why it always has remained so effective in its operations.

Some of these changes have been substantive in nature and, as you are undoubtedly aware, some have been well publicized. For example, the FBI since last May accepts applications from women who aspire to become Special Agents . . . a policy determination which, incidentally, also happens to be in accord with the law of the land.

We now have seven female Agents who have been assigned to Field Divisions of the FBI following their successful completion of our New Agents' Training Course. They are performing the same duties as their male counterparts.

Eight more female Agents are still in training. Four of them are members of the new Agents class that will graduate tomorrow, and they too will be reporting to Field Divisions.

Early last June, changes were made in the grooming standards for members of the FBI—but not in the requirement that they be neat, clean, and presentable in appearance. We changed the grooming standards; we did not abolish them.

I know, and every man and woman in the FBI knows, that the FBI would self-destruct without discipline. We have not abandoned our disciplinary procedures but we do approach them and apply them in a different manner. A law enforcement agency of any kind or size cannot function at all . . . let alone function in the public interest in accordance with law . . . without a firm, fair, and swift disciplinary system.

On May 26th last, I announced that an Office of Equal Employment Opportunity Affairs was being established for the specific purpose of intensifying the FBI efforts to recruit more black Americans, Asian-Americans, Spanish-speaking Americans, and American Indians.

My initial inquiries last spring showed that the FBI's overall record in this area had been good. Special efforts had been made to recruit employees from these groups of Americans, but it had proven difficult to attract people qualified in every particular to meet the standards for FBI Agents.

Although recruiting among these Americans is tough, we will not lower our standards, and I am certain that members of these groups of Americans would not want us to do so.

Representatives of the Office of Equal Employment Opportunity Affairs visit our Field Divisions across the United States and meet with influential community leaders and members of the press, among others, in an effort to recruit qualified applicants from these groups.

Since May, 1972, we have achieved an increase in the FBI from among these groups of Americans, Mr. Chairman, and I have appended Exhibit "C" to this statement which sets forth the small gains that lots of hard work has so far produced.

Another basic change in our policies concerns the re-ordering of investigative priorities in the area of organized crime.

Organized crime is a tenacious, brutal, and costly social malady. The investment capital of the organized criminal element is generated by its tremendous illegal gambling combines and narcotics traffic throughout the country. This investment capital enables the underworld to finance other criminal activities, as well as fraudulent activities in legitimate business and industry.

In order to strike organized crime where it would do the most damage . . . that is, at the top and in the pocketbook . . . we are concentrating our manpower on the larger, more powerful hoodlum groups, on the upper echelon leaders, and on their most prolific sources of illicit revenue.

The emphasis is not on assembling statistics, or keeping a high case load, but in using our resources to hit directly at the strong points of the criminal enemy.

Along these same lines, we have improved our acquisition and dissemination of narcotics intelligence. Violations of the narcotics laws, of course, are not within the investigative jurisdiction of the FBI. But in the performance of our regular work, we receive information concerning the drug traffic and about the principals involved in this traffic.

Last summer, following receipt and study of a thorough in-house survey of the narcotics problem that I had ordered, I instructed each of our Field Divisions to designate a Special Agent as the *narcotics coordinator* for the Division. So also I directed that a narcotics coordinator be designated at FBI Headquarters, and I ordered each Special Agent in Charge of our Field Divisions to intensify the acquisition of narcotics intelligence for transmission to agencies having direct investigative responsibilities in cases involving violations of our narcotics laws.

This shift in emphasis has improved our efficiency in generating narcotics intelligence and this, in turn, is proving to be of real help to the agencies with jurisdiction in the narcotics field.

We have established a new FBI policy designed to insure *complete fairness* regarding civil rights investigations in cases involving complaints against police officers—fairness to the officers and the complainant. We do not assign Special Agents to make these investigations who have worked with the officers involved in the normal course of business. We bring in an Agent who has had no prior close association with the local police department. This policy is in the interests of all . . . our Agents, the police, and the public we both serve.

In August, 1972, the evaluation process that I had been spearheading personally for three months was formalized in an Office of Planning and Evaluation. This Office has been, and will be, conducting detailed studies of all phases of FBI operations . . . policies as well as procedures. We are giving ourselves a good, thorough overhaul, and we believe that we are the people best qualified to undertake this task.

The FBI . . . an agency of nearly 20,000 employees . . . needs topflight management. To further this objective, I have altered some, and initiated new, management programs. For example, last October I established Executive Selection Boards comprising experienced top level executives from both our Headquarters and field staffs to recommend to me those men in our ranks best qualified to advance to positions of greater responsibility and authority. Another example is the institution of management instruction programs for our executives. These individuals

are required to keep abreast of the latest ideas and concepts in effective decision making, work planning and productivity, performance appraisal and evaluation, and human behavior.

And if that reference to "human behavior" seems inappropriate to the FBI Agent—it is not. The men and women of the FBI, like all law enforcement people, are expected these days to serve as baby sitters, hand holders, and behavioral scientists . . . even as we expect them to confront the most desperate criminal with guns and guts and raw courage. It is not easy for the police officer to serve in this dual capacity. But increasingly he must. He has to be more of a sociologist . . . and, simultaneously, no less of a cop.

During the past ten months, we have taken steps to bring our Headquarters and field staffs closer together. In an organization stretching from Honolulu to Bangor, Maine, from Anchorage, Alaska, to San Juan, Puerto Rico, there is always the danger of polarization, of hard-core divisiveness between the Headquarters and the fields staffs. As I indicated previously, I have visited 58 of the 59 Field Divisions. I have personally met . . . and talked at length . . . with each of our Special Agents in Charge, as well as other field officials. I want to know their problems because their problems are our problems. I seek their counsel. In fact, I demand their advice and counsel. I want to establish that *personal rapport which builds confidence and enhances performance.*

In this connection, the FBI now encourages the interchange of ideas between field and Headquarters officials. We have made this exchange a reality by visits to and from the field and to and from Headquarters by our key officials.

Most important, we have taken steps *to increase the productivity of the Special Agent in carrying out his daily assignments.* To this end, we have eliminated a number of sheer administrative chores requiring considerable paper work . . . thereby stealing his time from investigative tasks. For example, last June . . . shortly after I became Acting Director . . . we discontinued the requirement to maintain so-called "time in the office" statistics . . . that is, keeping account of the time spent by the Agent in the office during working hours.

We are seeking to free the Special Agent from unnecessary administrative burdens . . . thereby enabling him to turn in an even better performance during his day's work.

The FBI forms part of a law enforcement team . . . a team that today stands on the front lines against crime.

I have made a special effort to meet personally with my brother law enforcement officials. Last year, for example, some 50 of the Nation's chief law enforcement officials, representing the major urban and metropolitan areas of our land, met with me and top executives of the FBI in my office in small groups so that we could have meaningful, thorough discussions. We reviewed our specific needs in the fight against crime, the cooperative services of the FBI, and ways in which we could be of further help to them and they to us. Their cooperation has been, and continues to be, of great assistance to the FBI.

Last spring our new FBI Training Academy opened at Quantico, Virginia, affording increased opportunity for improved police training and thereby contributing heavily to the development of police professionals.

One of the more promising features of our National Academy program is our affiliation with the University of Virginia. We are bringing the cop to the campus and the campus to the cop. Both are profiting from a really important learning experience.

We have held three national symposia at the new FBI Academy at Quantico. These have been devoted to major police concerns such as Police-Community Relations, Urban Police Patrol Practices, and Terrorism. A National Seminar on current bombing problems began at the Academy on February 25th and concludes today (February 28).

To help law enforcement agencies cope with the growing danger of deadly attacks, the FBI developed a week-long Anti-Sniper and Survival Training course in the Fall of 1971. A total of 940 officers, representing 186 agencies, have been afforded this training at Quantico and another 200 agencies are waiting to be accommodated.

Mr. Chairman, I have prepared an exhibit to this statement that sets forth additional changes made in FBI policies and procedures during the past ten months (Exhibit "D"). I do this to save time, not to indicate that they are of lesser importance than the ones I have discussed with the Committee. Some are, but some are not.

Mr. Chairman, after ten months as a member of the FBI and from my vantage point as Acting Director, I have found the FBI to be a superb organization . . . a faithful servant to our democratic tradition. Its foundations have been well built; its people are complete professionals; and their dedication is to service, integrity, and excellence.

There have been changes in style . . . simply because I am Pat Gray and not Mr. Hoover. I have, where I felt it was necessary, made some changes . . . changes that I was convinced would be beneficial not only to the FBI but also to the people we serve.

But the FBI remains the same . . . an FBI dedicated and loyal, imbued with the concepts of fidelity, bravery, and integrity, the servant of the people.

I am highly optimistic about the future of the FBI in our free society.

I am optimistic about the future of the FBI because I know—as only an insider can ever really know—that the people of the FBI are imbued with a spirit and dedication to Constitutional principles that augurs well for the future.

The FBI, operating as it does under the constitutional controls of our democratic system of Government, is, I believe, one of our greatest national institutions.

I am honored and humbled, Mr. Chairman, to have been nominated by the President to be its Director.

AVENUES OF INQUIRY

(1) Organized Crime.

(2) Subversion (Specifically include in this paper a detailed analysis and justification for our current policies with regard to the investigation of individuals where there has been no specific violation of Federal law. Is additional legislation needed in this area?)

(3) Drug Abuse (This is one of the Nation's most pressing problems and we should be sure that the FBI is doing everything possible to assist. Set forth specific contributions which we have made during the last six months. What further should we and can we do? Imagination and ingenuity should be exercised to explore possibility of further contributions within our jurisdictional lines and without diverting substantial manpower from other critical areas.)

(4) National Police Force (What safeguards do we have to prevent the FBI from becoming a National police force? What role should the Inspection Division play and should the Inspection Division report directly to the Director?)

(5) Bureau Files (We have a vast amount of information in our general files, in the National Crime Information Center, and in the Identification Division. Are we taking adequate security precautions to prevent leaks to unauthorized persons? Are state safeguards adequate to insure the confidentiality of National Crime Information Center information? Are classification procedures completely responsive to our needs and to the needs of other Federal agencies? Is there a need for certain of our files of a very sensitive nature to be given greater security than the criminal files?)

(6) FBI Jurisdiction (Should we have an office specifically set up for the evaluation of pending legislation and to study the needs for any additional legislation? Are FBI jurisdictional lines sharply defined? Is there any need for legislation to transfer some of our responsibilities to other Federal agencies?)

(7) Police Training (Is our training responsive to the needs of the police agencies we serve? What role should the FBI assume in this field? Examine our National Academy program.)

(8) Personnel Matters (Recruiting, applicant standards, evaluation, discipline, including methods by which employee is advised of requirements.)

(9) Director's Advisory Committee (Need for, proposed make-up, and method of operation.)

(10) Director's Staff Group (Mid-range and long-range policy planning and evaluation.)

(11) Office of Minority Affairs (What steps can be taken to increase the number of qualified applicants from minority groups?)

(12) Should the FBI Special Agent Position be Opened to Women? (Requirements of the position should be carefully considered.)

(13) Grooming and Personal Appearance Standards for FBI Employees (Here we must consider the tenor of the times. We must be sure that our standards are reasonable and yet at the same time preserve the effective image of the Bureau.)

LIST OF PUBLIC SPEECHES AND FIELD OFFICE VISITS BY L. PATRICK GRAY III, AS ACTING DIRECTOR OF THE FBI

Date and location	Sponsoring organization	Type of event	Title of speech
May 8, 1972: New Haven, Conn		Field office visit	
May 10, 1972: Washington, D.C		do	
May 12, 1972: New York, N.Y		do	
May 15, 1972: Boston, Mass		do	
May 17, 1972: Washington, D.C	The Thomas More Society	Luncheon address	Untitled.
May 19, 1972: Norfolk, Va		Field office visit	
May 25, 1972: Mobile, Ala		do	
May 25, 1972: Biloxi, Miss	Governor of Mississippi	4th annual crime control conference	Challenges We Face Together.
May 26, 1972: New Orleans, La		Field office visit	
May 26, 1972: Houston, Tex		do	
June 5, 1972: Newark, N.J		do	
June 5, 1972: Philadelphia, Pa		do	

Date and location	Sponsoring organization	Title of event	Title of speech
June 7, 1972: Washington, D.C.	Bureau	National Academy graduation (remarks, present diplomas).	Untitled.
June 8, 1972: Washington, D.C.	Boys' Clubs of America	Annual convention (closing, dinner speech)	Our Most Valuable Resource.
June 12, 1972: Detroit, Mich.		Field office visit	
June 12, 1972: Chicago, Ill.		do.	
June 13, 1972: Washington, D.C.	Bureau, NCIC	Meeting of law enforcement officials (brief remarks).	Spoke extemporaneously.
June 14, 1972: Washington, D.C.	Washington Host Lions Club	Flag Day luncheon (brief acceptance remarks, citizenship award in honor of Mr. Hoover).	Do.
June 15, 1972: Washington, D.C.	American Association of Editorial Cartoonists	National convention (briefing; questions and answers).	Do.
June 16, 1972: Los Angeles, Calif.		Field office visit	
Do.	Pepperdine University	"Great Issues" series	Masters of Change.
June 17, 1972: Santa Ana, Calif.	do.	Law school commencement (speech, receive honorary degree).	Perfection and the Law.
June 19, 1972: Palm Springs, Calif.	National Sheriffs' Association	Annual convention (speech)	The Image of Law Enforcement.
June 19, 1972: San Francisco, Calif.		Field office visit	
June 20, 1972: Sacramento, Calif.		do.	
June 21, 1972: Washington, D.C.	Italian Historical Society of America	Bonaparte Day ceremony	Spoke extemporaneously.
June 26, 1972: Cleveland, Ohio.		Field office visit	
June 26, 1972: Cincinnati, Ohio.		do.	
June 29, 1972: San Diego, Calif.		do.	
June 30, 1972: San Diego, Calif.	California Exchange Clubs	Annual convention (luncheon speech)	Law Enforcement and Social Progress.
June 30, 1972: Phoenix, Ariz.		Field office visit	
July 4, 1972: Philadelphia, Pa.	City of Philadelphia	July 4th ceremonies at Independence Hall (keynote speaker).	Our Beloved Country.
July 11, 1972: Indianapolis, Ind.		Field office visit	
July 11, 1972: Milwaukee, Wis.		do.	
Do.	Bureau	National Academy associates sectional re-training session (banquet speech).	Law Enforcement—Protector of Our Liberties.
July 13, 1972: Washington, D.C.	Bipartisan Congressional Intern Committee	Congressional summer interns (remarks, questions and answers).	Untitled
July 15, 1972: Lowell, Mass.	Retired Armed Forces Association	Annual convention (dinner speech)	Spoke extemporaneously.
July 18, 1972: Denver, Colo.		Field office visit	
July 18, 1972: Las Vegas, Nev.		do.	
Do.	International Conference of Police Associations	Annual convention (banquet speech)	Our Challenge and Trust.
July 19, 1972: Omaha, Nebr.		Field office visit	
July 25, 1972: Knoxville, Tenn.		do.	
July 25, 1972: Atlanta, Ga.		do.	
July 27, 1972: Washington, D.C.	Department of Justice	Legal clerks speaker program (remarks, questions and answers).	Untitled.
Aug. 1, 1972: Albany, N.Y.		Field office visit	
Aug. 1, 1972: Pittsburgh, Pa.		do.	
Aug. 8, 1972: Louisville, Ky.		do.	
Aug. 8, 1972: Charlotte, N.C.		do.	
Aug. 11, 1972: Cleveland, Ohio.	The City Club of Cleveland	Luncheon speech	Freedom Under Law.
Aug. 15, 1972: Columbia, S.C.		Field office visit	
Aug. 15, 1972: Savannah, Ga.		do.	
Aug. 22, 1972: Springfield, Ill.		do.	
Aug. 23, 1972: Minneapolis, Minn.	VFW	Convention (remarks, accept gold medal award in honor of Mr. Hoover).	America Is Worth Fighting For.
Do.		Field office visit	
Aug. 28, 1972: Little Rock, Ark.		do.	
Aug. 28, 1972: Jackson, Miss.		do.	
Sept. 1, 1972: Buffalo, N.Y.		do.	
Sept. 5, 1972: Anchorage, Alaska.		do.	
Sept. 6, 1972: Seattle, Wash.		do.	
Sept. 7, 1972: Portland, Oreg.		do.	
Sept. 7, 1972: Spokane, Wash.	Washington State Bar Association	Annual convention (luncheon speech)	The Delicate Balance.
Sept. 7, 1972: Butte, Mont.	Rotary Club of Butte	Monthly meeting (dinner speech)	A Nation That Cares.
Sept. 8, 1972: Butte, Mont.		Field office visit	
Sept. 14, 1972: Alexandria, Va.		do.	
Sept. 15, 1972: Quantico, Va.	Bureau	90th session, FBI National Academy (commencement address).	The FBI National Academy.
Sept. 18, 1972: Quantico, Va.	do.	National Symposium on police-community relations.	The Police Officer and His Community.
Sept. 19, 1972: Kansas City, Mo.		Field office visit	
Sept. 19, 1972: Memphis, Tenn.		do.	
Sept. 21, 1972: Chestertown, Md.	Washington College	William James forum	Spoke extemporaneously.
Sept. 22, 1972: Detroit, Mich.	Michigan State Bar Association	Annual convention (banquet speech)	The Rule of Law—Dividing Line Between Freedom and Chaos.
Sept. 25, 1972: Washington, D.C.	Scripps-Howard Editors	Annual meeting (remarks; questions and answers).	Spoke extemporaneously.
Sept. 27, 1972: Colorado Springs, Colo.	Colorado Correctional Association	Annual meeting (luncheon speech)	Corrections—A Time of Opportunity.
Sept. 27, 1972: Albuquerque, N. Mex.		Field office visit	
Sept. 27, 1972: El Paso, Tex.		do.	
Sept. 27, 1972: San Antonio, Tex.		do.	
Oct. 2, 1972: Washington, D.C.	United Press International	UPI International editors and publishers annual conference (remarks; questions and answers).	Spoke extemporaneously.
Oct. 9, 1972: New London, Conn.	United Community Services of Southeastern Connecticut.	United Fund kickoff luncheon	The American Way.
Oct. 10, 1972: Oklahoma City, Okla.	Rotary Club of Oklahoma City	Monthly luncheon meeting	The Promise of America.
Oct. 10, 1972: Oklahoma City, Okla.		Field office visit	
Oct. 11, 1972: Dallas, Tex.		do.	
Oct. 11, 1972: Birmingham, Ala.		do.	
Oct. 13, 1972: Chicago, Ill.	Executives Club	Lucheon speech	A Standard of Excellence.
Oct. 16, 1972: Salt Lake City, Utah		Field office visit	
Oct. 17, 1972: Salt Lake City, Utah	International Association of Chiefs of Police	79th annual conference	In the Nation's Service.
Oct. 20, 1972: Hot Springs, Va.	The Business Council	Fall meeting (banquet)	A Standard of Excellence.
Sept. 24, 1972: Tampa, Fla.		Field office visit	
Sept. 25, 1972: Miami, Fla.		do.	
Sept. 25, 1972: Jacksonville, Fla.		do.	
Sept. 26, 1972: New York, N.Y.	Rotary Club of New York City	Monthly luncheon meeting	Service in the Cause of Freedom.
Sept. 29, 1972: Washington, D.C.	Bureau Employees	23d annual FBI communion breakfast	Spoke extemporaneously.
Sept. 30, 1972: Richmond, Va.		Field office visit	
Sept. 30, 1972: Baltimore, Md.		do.	
Sept. 31, 1972: San Juan, P.R.		do.	
Nov. 7, 1972: Washington, D.C.	Commission on Personnel Interchange	Remarks; questions and answers to personnel interchange executives.	Do.
Nov. 9, 1972: New Orleans, La.	Society of Former Special, Agents of the FBI	National convention (breakfast address)	Do.
Nov. 9, 1972: Hartford, Conn.	The Hundred Club of Connecticut	Annual banquet	Partners in Public Safety.
Nov. 14, 1972: St. Louis, Mo.		Field office visit	
Do.	The Backstoppers	Annual winter meeting (dinner address)	When Disaster Strikes.

LIST OF PUBLIC SPEECHES AND FIELD OFFICE VISITS BY L. PATRICK GRAY III, AS ACTING DIRECTOR OF THE FBI—Continued

Date and location	Sponsoring organization	Title of event	Title of speech
Nov. 15, 1972: Quantico, Va	Bureau	Symposium on urban police control practices	Spoke extemporaneously.
Nov. 17, 1972: Washington, D.C	Law Association, The George Washington University.	Annual banquet (remarks; receive distinguished alumnus award).	Untitled.
Jan. 16, 1973: Quantico, Va	Bureau	Symposium on terrorism	Do.
Jan. 24, 1973: Washington, D.C	Naval Ship Systems Command	Luncheon address	Spoke extemporaneously.
Jan. 25, 1973: Washington, D.C	Department of Justice	National conference on criminal justice (remarks: panelist).	Untitled.
Jan. 26, 1973: Bangor, Maine	Maine Bar Association	Annual meeting (luncheon address)	Fidelity to Perfection.
Feb. 1, 1973: Annapolis, Md	U.S. Naval Academy	Prayer breakfast	Spoke extemporaneously.
Feb. 14, 1973: Washington, D.C	Women's Club, National War College	Monthly luncheon	Do.
Feb. 15, 1973: College Station, Tex	Texas A & M University	18th student conference on national affairs	The FBI in a Free Society.
Feb. 16, 1973: Milwaukee, Wis	State Bar of Wisconsin	Annual convention (luncheon address)	FBI—Change of Command.
Feb. 28, 1973: Quantico, Va	Bureau	Seminar on bombing problems	
Mar. 6, 1973: Lexington, Va	Washington and Lee University	CONTACT '73—10th annual symposium	
Mar. 22, 1973: Hartford, Conn	Hartford County Bar Association	Annual meeting (dinner address)	
Mar. 30, 1973: Quantico, Va	Bureau	Graduation exercises, 92d session, FBI National Academy (remarks).	

INCREASES IN MINORITY EMPLOYMENT—FOLLOWING IS A TABULATION AS OF FEB. 1, 1973, OF FBI EMPLOYEES WHO ARE MEMBERS OF 4 MINORITY GROUPS, COMPARE WITH THE NUMBER EMPLOYED AS OF MAY 1, 1972:

	Field offices	FBIHQ	Total
FBI black employees as of May 1, 1972:			
Agents	60	3	63
Clerks	154	1,231	1,385
Total	214	1,234	1,448
FBI black employees as of Feb. 1, 1973:			
Agents	67	5	72
Clerks	195	1,358	1,553
Total	262	1,363	1,625
FBI Spanish-surnamed employees as of May 1, 1972:			
Agents	61	1	62
Clerks	110	116	226
Total	171	117	288
FBI Spanish-surnamed employees as of Feb. 1, 1973:			
Agents	74	1	75
Clerks	120	134	254
Total	194	135	329
FBI American Indian employees as of May 1, 1972:			
Agents	3	0	3
Clerks	2	0	2
Total	5	0	5
FBI American Indian employees as of February 1, 1973:			
Agents	11	0	11
Clerks	7	1	8
Totals	18	1	19
FBI Asian American employees as of May 1, 1972:			
Agents	15	0	15
Clerks	23	22	45
Total	38	22	60
FBI Asian American employees as of February 1, 1973:			
Agents	19	0	19
Clerks	28	26	54
Total	47	26	73

ADDITIONAL CHANGES IN FBI POLICIES AND PROCEDURES—MAY 3, 1972 TO FEBRUARY 28, 1973

1. Delegation of greater authority to Special Agents in Charge to handle investigative matters.

2. Reduction in frequency of routine administrative reporting from the field.

3. Instituted annual 2-day conferences at Headquarters for Special Agents in Charge and eliminated the requirement that they attend Inservice classes.

4. Instituted policy of bringing Assistant Special Agents in Charge and supervisors to Headquarters for specialized management training.

5. Increased personal consultation between the Acting Director and the Executives Conference. Formerly, the Executives Conference met with the Associate Director.

6. Left the two Assistant to the Director positions vacant in an effort to shorten the lines of reporting between the Assistant Directors and the Acting Director.

7. Realigned supervisory responsibility of certain investigatory matters among the Headquarters divisions.

8. Instituted program of sending top Headquarters personnel to the field divisions for consultations.

9. Reorganized functions previously assigned to the Crime Research Division by transferring responsibility for Congressional and press services to the Director's Office and remaining functions to other divisions.

10. Instituted a policy of transferring top Headquarters personnel to the field and top field personnel into Headquarters.

11. Reestablished a liaison section to facilitate and expedite business with other government agencies.

12. Purged inactive arrest records of individuals age 80 and older from the fingerprint files.

13. Reduced the length of tours for personnel on foreign assignments from 3 years to 2 years.

14. Re-emphasized Inservice training for Special Agents and instituted specialized classes for Inservice training.

15. Eliminated the requirement that Agents in Resident Agencies submit daily reports of their activities.

16. Clarified the Hardship Transfer Policy, which allows transfers for personnel with severe personal hardships which could be alleviated by a change in office of assignment.

17. Modified the weight limits for Special Agents to make them more realistic in accordance with expert medical advice.

18. Changed policy on granting advance of funds to an employee officially transferred, to include advances for (1) per diem and mileage when travel is by a privately owned automobile, and (2) subsistence expenses while occupying temporary quarters.

19. Instituted voluntary physical fitness program with established standards for Special Agents, allowing them to use up to three one-hour periods per week during regular working hours for this purpose.

20. Revised procedures for evaluating disciplinary action in connection with inspections.

21. Established tougher physical tests for Agents in training.

22. Cut from two years to one the time period that Special Agent applicants must wait to be re-examined if they fail to qualify on the first try.

23. Changed the qualifications for the Special Agent position to consider certain enlisted military service as sufficient under the Modified Program for Special Agent applicants. Formerly the only enlisted service which was considered sufficient was that in military intelligence.

24. Changed the qualifications for tour leaders so that female clerical personnel are eligible to be tour leaders, a position formerly restricted to male clerical personnel.

25. Changed the smoking rules to apply equally to men and women. Formerly female employees were prohibited from smoking at their desks.

26. Changed rules to allow employees to have coffee, soft drinks, etc. at their desks. Formerly, this had not been allowed.

27. Changed policy to allow certification, where appropriate, of former employees as desirable for employment in the criminal justice field upon completion of their education as required to qualify for Law Enforcement Education Program (LEEP) loans. Prior policy was to certify, where appropriate, only current employees.

28. Discontinued the program of gathering biographical data on nonincumbent Congressional candidates.

29. Caused a White House Fellow to be assigned to the Bureau for the first time.

30. Established the Law Enforcement Training Advisory Committee.

31. Discontinued the compilation of statistics on the recovery of stolen motor vehicles which were transported in interstate commerce unless the vehicle was recovered specifically as a result of FBI investigative efforts.

32. Instituted a training program for airline personnel in anti-hijacking procedures.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RURAL ENVIRONMENTAL ASSISTANCE AND WATER BANK PROGRAMS

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, H.R. 2107, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2107) to require the Secretary of Agriculture to carry out a rural environmental assistance porgram.

The Senate proceeded to consider the bill.

PRIVILEGE OF THE FLOOR

Mr. TALMADGE. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture and Forestry be permitted to be present on the floor during the consideration of H.R. 2107:

Harker T. Stanton, Michael R. Mc-

Leod, Henry J. Casso, Forest W. Reece, James W. Giltmier, James E. Thornton, John A. Baker, Bill Taggart, Cotys M. Mouser, and James M. Kendall.

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

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

Mr. TALMADGE. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Mr. James Savedge, of my staff, be granted the privilege of the floor during the consideration of the pending measure.

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

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

Mr. TALMADGE. I yield.

Mr. ROBERT C. BYRD. So that the Sergeant at Arms will know whether or not these staff members are wanted on the floor during any rollcall votes, would the Senators indicate their preference in the matter?

Mr. TALMADGE. I do not desire their presence during a rollcall vote. I would think that perhaps the chief counsel, Mr. Harker T. Stanton, and the representative of the minority, Mr. Forest W. Reese, should be present during a record vote. In fact, I do not anticipate that all those named will be on the floor during this time; but if one of them should bring a document here, I desire that he be permitted on the floor.

Mr. HARRY F. BYRD, JR. My request does not include presence during a rollcall vote.

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

Mr. TALMADGE. Mr. President, the bill before the Senate is very simple. It would require the Secretary of Agriculture to do two things:

First, to make payments under the rural environmental assistance program in the full amount appropriated therefor; and

Second, to enter into agreements under the water bank program to the full extent permitted by available appropriations therefor.

Both the REAP program and the water bank program are important.

I personally have witnessed the transformation of the countryside through the REAP program which was begun in the days of the great depression. Indeed, when I was a boy, Georgia was noted for its gully-ridden clay hillsides. When it rained, Georgia's streams and ditches ran red with clay soil. In times of drought, the air was heavy with dust from fields that were not covered by grass or crops.

Today I live in a different Georgia—a Georgia with grassy, well-terraced hillsides, a Georgia with well-drained, productive bottom lands, a Georgia with rich black top soil built up through good conservation practices over the years, a Georgia with clean, well-tended streams and farm ponds. Not only has the rural environment of Georgia become more beautiful and more livable because of these changes; the productivity and the prosperity of the State have increased as well. Through conservation practices over the years, farmers have covered the red clay hillsides with rich productive top soil—top soil that enables them to produce 90 bushels of corn on an acre which once produced only nine bushels.

Although my State of Georgia has received no funds under the water bank program, the hunters and lovers of wild life have received benefits just as all of the Nation has benefited. If we do not preserve the wetlands which serve as nesting and breeding areas for our migratory water fowl, then there will be no migratory water fowl for anyone to enjoy.

As important as these two programs are, the issue that the Senate faces today is much more important than these programs. The issue at stake is whether Congress will permit the executive branch to continually usurp its power of the purse—its power to tax and its power to appropriate funds. The issue at stake is whether Congress will stand idly by while the executive branch of Government ignores laws passed by Congress, while the executive branch ignores spending priorities set by Congress and refuses to implement some laws so that it can spend according to its own priorities.

Simply put, Mr. President, the question is whether we will preserve the separation of powers that is so basic to our Constitution and to our democratic form of government.

Recently, I held 4 days of hearings on the cutback and termination of farm and rural programs. I wanted to know what basis the President had for ignoring laws passed by Congress and signed by both him and past Presidents. I requested Mr. Roy L. Ash, the Director of the Office of Management and Budget, to appear before the Committee on Agriculture and Forestry to explain these actions. However, Mr. Ash refused to appear, and I put my questions to Secretary Butz. I asked the Secretary whether the President, who is picking and choosing some items that he will fund and some items that he will withhold funds for, could withhold funds for other coequal branches of government. I asked him whether the President could withhold funds for Congress or the judiciary. The Secretary responded that if the President could withhold funds from other sources, he presumed that the President could withhold funds from Congress and the judicial branch.

I know that Secretary Butz is not a lawyer and he is not an expert on the Constitution, but he was the official administration spokesman on the impoundment of funds for farm and rural programs. The question that I raised was a legitimate one. Any time we have the executive branch ignoring laws at will and picking which laws it will enforce and which laws it will disobey, we have to be concerned as to how far this trend will go.

Certainly, we have to consider the possibility of one-man rule—and one-man rule is exactly what we will have if we allow the President to flout the will of Congress and arrogate to himself increasing powers.

I was not satisfied with Secretary Butz' statement in justification of the termination of the rural environmental assistance and water bank programs during his testimony before the committee on February 1.

I was even less impressed with the justification of these terminations that was provided by the general counsel of the Department of Agriculture. The committee report deals thoroughly with the constitutional issue involved and discusses the USDA's position. The USDA's memorandum justifying the termination of the REAP and water bank programs does not squarely face the issue at hand. While it talks about impoundments in the past, it fails to address the fact that we have much more involved here than an ordinary impoundment of funds. In the case of the REAP and water bank programs, we have a termination of programs—a cancellation of programs authorized by Congress.

Moreover, the USDA justification ignores the fact that Congress has repeatedly and consistently asserted its intention that a REAP program be carried out by repeatedly enacting a program level higher than that requested by the administration. It ignores the fact that the House Appropriations Committee, in its report on the agricultural-environmental and consumer protection bill, expressed dissatisfaction with the amount of funds being expended for the water bank program and urged that the program be expedited.

These days we hear the Presidential power to impound justified by officials in terms that indicate that it is some kind of divine right. As a matter of fact, a thorough examination of the Constitution and relevant statutes will show that there is no such right based on either the Constitution or on statutes. This point is made quite well in a 1969 memorandum by William B. Rehnquist who was then Assistant Attorney General, Office of Legal Counsel:

> With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent. There is, of course, no question that an appropriation act permits but does not require the executive branch to spend funds. See 42 Ops.A.G. No. 32, p. 4 (1967). But this is basically a rule of construction, and does not meet the question whether the President has authority to refuse to spend where the appropriation act or the substantive legislation, fairly construed require such action.

The Rehnquist memorandum is the most lucid examination of the impoundment issue that I have seen. Therefore, I ask unanimous consent that it be printed at this point in my remarks in the RECORD.

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

DECEMBER 1, 1969.

HON. EDWARD L. MORGAN,
Deputy Counsel to the President,
The White House,
Washington, D.C.

DEAR ED: Attached is a memorandum dealing with the authority of the President to impound funds appropriated for assistance to federally impacted schools. A memorandum

dealing with other education programs is in preparation.

Sincerely,

THOMAS E. KAUPER,
Deputy Assistant Attorney General, Office of Legal Counsel.

MEMORANDUM

Re Presidential Authority to Impound Funds Appropriated for Assistance to Federally Impacted Schools

You have asked us to consider whether the President may, by direction to the Commissioner of Education or to the Bureau of the Budget, impound or otherwise prevent the expenditure of funds appropriated by Congress to carry out the legislation for financial assistance to federally impacted schools, Act of September 30, 1950, as amended ("P.L. 874"), 20 U.S.C. 236 *et seq.*, and Act of September 23, 1950, as amended ("P.L. 815"), 20 U.S.C. 631 *et seq.*

In July the House of Representatives, in adopting the Joelson Amendment to the Labor-HEW Appropriations bill, added approximately one billion dollars to the sum to be appropriated for various programs administered by the Office of Education. One of the largest increases was in the appropriation to carry out P.L. 874, which was raised to $585 million, nearly $400 million over the figure requested by the Administration and reported by the House Appropriations Committee. The appropriation for P.L. 815, on the other hand, is only $15,167,000, the same as that requested by the Administration.

The question arises whether, assuming that the appropriations carried in the Joelson Amendment are not significantly reduced by the Senate, the Administration is bound to spend the money appropriated. This memorandum considers the situation with respect to P.L. 874 and P.L. 815, particularly the former. In a subsequent memorandum we shall consider the situation with respect to certain of the other items in the Joelson Amendment.[1]

P.L. 874 authorizes financial assistance for the maintenance and operation of local school districts in areas where school enrollments are affected by Federal activities. Payments are made to eligible school districts which provide free public education to children who live on Federal property with a parent employed on Federal property (§ 3 (a)) and to children who either live on Federal property or live with a parent employed on Federal property (§ 3 (b)); to those school districts having a substantial increase in school enrollment resulting from Federal contract activities with private companies (§ 4); and to school districts when there has been a loss of tax base as a result of the acquisition of real property by the Federal Government (§ 2). Where the State or local educational agency is unable to provide suitable free public education to children who live on Federal property, the Commissioner of Education is required to make arrangements for such education (§ 6). Major disaster assistance is authorized for local educational agencies under section 7 of P.L. 874. It should be noted that the $585 million provided by the Joelson Amendment is for assistance "as authorized by sections 3, 6, and 7" of P.L. 874. Consequently, no funding is provided for sections 2 and 4, and these sections need not concern us further.

Section 3 of P.L. 874 requires the Commissioner to compute the "entitlement" of a local educational agency under a formula, whereby simply stated, the number of category A children and one-half the category B children [2] is multiplied by the local contribution rate for the school district as determined under section 3(d). The determination of entitlement is not entirely mechanical, for within fairly narrow limits the Commissioner has discretion in selecting the basis for his determination of the local contribution rate, and other provisions permit him to make favorable adjustments in entitlements under narrowly defined circumstances (§§ 3(c) (2), 3(c) (4), 3(e), 5(d)(1)).

Once a district's section 3 entitlement has been determined, however, the process of making payments becomes mechanical. Section 5(b) of P.L. 874 provides:

"(b) The Commissioner shall * * * from time to time pay to each local educational agency, in advance or otherwise, the amount which he estimates such agency is entitled to receive under this title. * * * Sums appropriated pursuant to this title for any fiscal year shall remain available, for obligation and payments with respect to amounts due local educational agencies under this title for such year, until the close of the following fiscal year." [3]

However, P.L. 874 does not constitute a promise by the United States to pay the full entitlement, for the statute contemplates that Congress may choose not to appropriate sufficient money to fund the program at 100% of entitlement. In such a circumstance section 5(c) provides that the Commissioner after deducting the amount necessary to fund section 6, shall, subject to any limitation in the appropriation act, apply the amount appropriated pro rata to the entitlements.[3a] (Since the Joelson Amendment provides no funding for sections 2 and 4, this would mean that after deducting the amount necessary to fund section 6 and, perhaps, constituting a reserve for possible application to section 7,[4] the appropriation would be applied to the payment of section 3 entitlements.)

In sum, whatever limited discretionary authority the Commissioner may have with respect to determining entitlements, section 5 does not appear to permit any exercise of discretion in the application of appropriated funds to the payment of entitlements. Since the $585 million carried in the Joelson Amendment is only 90% of the total estimated entitlements, Departments of Labor and HEW Appropriations, 1970, Hearings before a subcommittee of the House Appropriations Committee, 91st Cong., 1st Sess., Pt. 5, p. 229, discretionary cutbacks on entitlements would have to exceed 10% of the total before there would be any impact on the total funding of the program.

We do not, in short, find within P.L. 874 any statutory authority for the Commissioner in the exercise of his discretion to avoid applying to the entitlements the full sum appropriated, and we conclude that the provisions of section 5 are mandatory in this respect.[5] We understand that this conclusion is consistent with the position taken over the years by the General Counsel of the Department of HEW.[6]

P.L. 815 authorizes payments to assist local school districts in the construction of school facilities in areas where enrollments are increased by Federal activities. The entitlement for assistance is computed under a statutory formula, and in addition there is provision for judicial review of a Commission's determination refusing to approve part or all of any application for assistance under the Act. (P.L. 815, § 11(b), 20 U.S.C. 641(b).) On the other hand, the mechanics of administration of P.L. 815 differ significantly from those of P.L. 874. First, the Commissioner is not required to apply appropriations pro rata among the eligible districts, but in accordance with priorities which he establishes by regulation (§ 3). Second, entitlement for assistance is not computed on an annual basis, but as a share of the cost of a particular project. Thus, if funds are held up in one fiscal year, the project may be funded the next year. Finally, the Commissioner is apparently free to allot, in his discretion, an indefinite share of the appropriation to section 14 purposes, school construction on Indian Reservations.

While we hesitate to conclude, on this fairly summary consideration, that the Commissioner has discretionary authority under P.L. 815 to delay indefinitely the obligation and expenditure of funds appropriated to carry out the statute, it does appear to us that there are enough discretionary powers throughout the statute to permit him to postpone the obligation of funds during fiscal 1970. Indeed, the Joelson Amendment provides that the appropriation for P.L. 815 shall remain available until expended, which would seem to confirm the conclusion that there is no legal requirement that the funds be obligated in the year for which the appropriation is made. However, inasmuch as the appropriation in question is relatively small and is consistent with the Administration's budget request, we see no need to discuss in greater detail the legal arguments which could be used to support a deferral of action to obligate the funds.

Notwithstanding the apparently mandatory provisions of P.L. 874, it has been suggested that the President has a constitutional right to refuse to spend funds which Congress has appropriated. In particular, there have been a number of statements by Congressmen with respect to the very programs of the Office of Education presently under consideration that Congress could not force the President to spend money which he did not want to spend.

Section 406 of the Vocational Education Amendments of 1968, 20 U.S.C.A. 1226 (Feb. 1969 Supp.) provides that notwithstanding any other provision of law, unless expressly in limitation of this provision, funds appropriated to carry out any Office of Education program shall remain available for obligation until the end of the fiscal year. The purpose of this provision was to deny to the President authority which he would otherwise have had under the Revenue and Expenditure Control Act (P.L. 90–364), §§ 202, 203, to reduce obligations and expenditures on Office of Education programs, and, in particular, the impacted area programs and title III of the National Defense Education Act, 20 U.S.C. 441 *et seq.* See Cong. Rec. vol. 114, pt. 22, p. 29155. During the debate in both Houses on this provision several members stated that section 406 would not interfere with the President's constitutional authority to reduce expenditures in the area of education. See remarks of Senators Dominick and Yarborough, p. 29157; remarks of Congressmen Perkins and Quie, vol. 114, pt. 23, p. 29477.

Similar views were expressed almost contemporaneously in connection with the House of Representatives' consideration of a Senate amendment to the Labor-HEW Appropriations Bill, 1969, (H.R. 18037), which would exempt from both the Anti-Deficiency Act and the Revenue and Expenditure Control Act an appropriation of $91 million for impacted area school assistance for fiscal 1968. In advising the House to accept the Senate amendment, Cong. Flood stated:

"Section 406 of the Vocational Education Act amendments seems to many and, I must say, not to others, to cover what the language in disagreement seeks to do; but in any event there are many instances in which it has been made clear that the President has the constitutional powers to refuse to spend money which the Congress appropriates." Cong. Rec., vol. 114, pt. 23, p. 30588.

Cong. Laird agreed:

"The language will not be interpreted as a requirement to spend because of the constitutional question which is involved. The Congress cannot compel the President of the United States to spend money that he does not want to spend." *Ibid.*

Footnotes at end of article.

More recently, in the hearing on HEW's appropriation bill for fiscal 1970, Congressman Smith stated his belief that HEW was not compelled to spend the funds appropriated for the impact aid program. Hearings before a Subcommittee of the House Appropriations Committee, 91st Cong., 1st Sess., Pt. I, p. 263. Subcommittee Chairman Flood appeared to agree. *Ibid.*, p. 264.

Taken together these statements evidence broad Congressional support for the proposition that the President has some residual constitutional authority to refuse to expend those funds to which section 406 applies. What is not clear is the nature or the precise source of the authority the speakers had in mind.

For the reasons discussed below we conclude that the President does not have a constitutional right to impound P.L. 874 funds notwithstanding a Congressional direction that they be spent. However, before proceeding with discussion of the constitutional question we might note that the Congressional statements cited above might be used in support of another argument for Presidential authority, based on statutory interpretation. It might be argued that although these statements cannot affect the interpretation of P.L. 874, since they were not made in the course of enacting or amending that statute, nevertheless P.L. 874 is not self-executing, and its operation is expressly conditioned on the enactment of subsequent appropriations legislation. Therefore, in determining the duties of the Commissioner of Education one must construe the intent of both the substantive legislation, P.L. 874, and the appropriations legislation, and the present understanding of Congress, as evidenced by the statements above, is that the enactment of the appropriation does not create a duty to spend.

Up to a point this argument has a certain amount of validity. We do not doubt, for example, that notwithstanding the terms of P.L. 874, Congress could provide in its appropriation that the money need not be spent. Or it could enact an appropriation, and then provide in contemporaneous or subsequent legislation that the money need not be spent, as was done in title II of the Revenue and Expenditure Control Act of 1968, P.L. 90–364. However, the Congressional statements cited above refer to the President's constitutional powers and not to Congressional intent. It seems doubtful that one can infer from those statements, most of them made in 1968, that Congress, in enacting the appropriations legislation in 1969, intended to exert less than its full authority to require the expenditure of funds appropriated to P.L. 874. Still, since at this writing the appropriations legislation has not yet been passed, it may be that legislative history may still be made which would support the argument that Congress does not intend to require the expenditure of the entire sum appropriated.

With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent. There is, of course, no question that an appropriation act permits but, does not require the executive branch to spend funds. See 42 Ops. A. G. No. 32, p. 4 (1967). But this is basically a rule of construction, and does not meet the question whether the President has authority to refuse to spend where the appropriation act or the substantive legislation, fairly construed, require such action.

In 1967 Attorney General Clark issued an opinion, 42 Ops. A. G. No. 32, upholding the power of the President to impound funds which had been apportioned among the States pursuant to the Federal-Aid Highway Act of 1956, 23 U.S.C. 101 *et seq.*, but had not been obligated through the approval by the Secretary of Transportation of particular projects. This opinion appears to us to have been based on the construction of the particular statute, rather than on the assertion of a broad constitutional principle of executive authority. While the reasoning of the opinion might lend support to Executive action deferring the obligation of funds under P.L. 815, we think the case of P.L. 874 is clearly distinguishable, because, among other reasons, impounding the P.L. 874 funds would result not in a deferral of expenditures, but in permanent loss to the recipient school districts of the funds in question and defeat of the Congressional intent that the operations of these districts be funded at a particular level for the fiscal year.

While there have been instances in the past in which the President has refused to spend funds appropriated by Congress for a particular purpose we know of no such instance involving a statute which by its terms sought to require such expenditure.

Although there is no judicial precedent squarely in point, *Kendall* v. *United States*, 12 Pet. 524 (1838), appears to us to be authority against the asserted Presidential power. In that case it was held that mandamus lay to compel the Postmaster General to pay to a contractor an award which had been arrived at in accordance with a procedure directed by Congress for settling the case. The court said:

"There are certain political duties imposed upon many officers in the executive department, the discharge of which is under the direction of the President. But it would be an alarming doctrine, that Congress cannot impose upon any executive officer any duty they may think proper, which is not repugnant to any rights secured and protected by the Constitution; and in such cases, the duty and responsibility grow out of and are subject to the control of the law, and not to the direction of the President. And this is emphatically the case where the duty enjoined is of a mere ministerial character," 12 Pet. at 610.

It might be argued that *Kendall* is not applicable to the instant situation because the Commissioner of Education's duties are not merely ministerial. *Cf. Decatur* v. *Paulding*, 14 Pet. 497, 515 (1840). On the other hand, while discretion is involved in the computation of the entitlement of the recipient districts, as we have pointed out, the application of the appropriation to the payment of entitlements pursuant to section 5(c) of P.L. 874 might reasonably be regarded as a ministerial duty. In any event, the former distinction between discretionary and ministerial duties has lost much of its significance in view of the broad availability of judicial review of agency actions and of a remedy in the Court of Claims for financial claims against the Government. 28 U.S.C. 1491. Thus, the mere fact that a duty may be described as discretionary does not, in our view, make the principle of the *Kendall* case inapplicable, if the action of the federal officer is beyond the bounds of discretion permitted him by the law.

In an unpublished opinion letter of May 27, 1937 to the President, Attorney General Cummings answered in the negative the question whether the President could legally require the heads of departments and agencies to withhold expenditures from appropriations made. Insofar as the opinion concludes that a Presidential directive may not bind a department head in the exercise of discretionary power vested in him by statute, this opinion appears inconsistent with the views expressed in the opinion of Attorney General Clark previously cited and with constitutional practice in recent years.[7] However, the Cummings opinion also rejects any idea that the President has any power to refuse to spend appropriations other than such power as may be found or implied in the legislation itself.

It is in our view extremely difficult to formulate a constitutional theory to justify a refusal by the President to comply with a Congressional directive to spend. It may be argued that the spending of money is inherently an executive function, but the execution of any law is, by definition, an executive function, and it seems an anomalous proposition that because the Executive branch is bound to execute the laws, it is free to decline to execute them. Of course, if a Congressional directive to spend were to interfere with the President's authority in an area confided by the Constitution to his substantive direction and control, such as his authority as Commander-in-Chief of the Armed Forces and his authority over foreign affairs, *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 319–322 (1936), a situation would be presented very different from the one before us. But the President has no mandate under the Constitution to determine national policy on assistance to education independent from his duty to execute such laws on the subject as Congress chooses to pass.

It has been suggested that the President's duty to "take care that the laws be faithfully executed" might justify his refusal to spend, in the interest of preserving the fiscal integrity of the Government or the stability of the economy. This argument carries weight in a situation in which the President is faced with conflicting statutory demands, as, for example, where to comply with a direction to spend might result in exceeding the debt limit or a limit imposed on total obligations or expenditures. See, *e.g.*, P.L. 91–47, title IV. But it appears to us that the conflict must be real and imminent for this argument to have validity; it would not be enough that the President disagreed with spending priorities established by Congress. Thus, if the President may comply with the statutory budget limitation by controlling expenditures which Congress has permitted but not required, he would, in our view, probably be bound to do so, even though he regarded such expenditures as more necessary to the national interest than those he was compelled to make.[8]

If Congress should direct the expenditure of funds in the carrying out of a particular program or undertaking, say, construction of a public building, but without limiting the Executive's discretion in such a way as to designate the recipient of the appropriated funds, a better argument might perhaps be made for a constitutional power to refuse to spend than is available in the formula grant situation presented by P.L. 874. Or this might be viewed simply as a situation in which the duty to spend exists but there is no constitutional means to compel its performance.

As to the availability of a remedy, if our conclusion that section 5 of P.L. 874 requires expenditure of the appropriation is correct, we believe that the recipient school districts will probably have a judicial remedy. It is true that unlike P.L. 815, P.L. 874 has no specific provision for judicial review of a refusal to make a grant. However, absence of such a provision does not imply that no judicial review was intended. See *Abbott Laboratories* v. *Gardner*, 387 U.S. 136, 139–46 (1967). It may be that a suit to compel the Commissioner to apply the appropriation would be inappropriate, see *Land* v. *Dollar*, 330 U.S. 731, 738 (1947), but if the school districts are legally entitled to payment under the statute, they can sue the Government in the Court of Claims. 28 U.S.C. 1941. Such a suit could raise interesting legal problems, for it is clear that "entitlement" under P.L. 874 is not itself equivalent to a legal obligation to pay, and it is doubtful that even entitlement plus appropriation creates a vested right which may not be destroyed by subsequent Congressional action. Accordingly, technical defenses might prevent recovery by a school district even if the court concluded that the

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Footnotes at end of article.

Executive branch had a statutory duty to spend the appropriation.

WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel.

FOOTNOTES

[1] This memorandum does not consider title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. 241a *et seq.*, which, although enacted as title II of P.L. 874, is usually cited as a separate statute and is listed as a separate appropriation item in the Joelson Amendment.

[2] The terms "category A" and "category B" refer to the standards for eligibility under subsections 3(a) and 3(b) respectively.

[3] This provision for continued availability beyond the close of the fiscal year conflicts with section 405 of the appropriation bill. However, we understand that HEW regards the obligation of the funds as occurring within the fiscal year, even though the precise amount due may not be ascertained until after the close of the fiscal year.

[3] Thus, he would have no authority to vary this formula in order to provide fuller funding for category A entitlements at the expense of category B entitlements unless Congress were so to provide in the appropriation act.

[4] It is arguable that since the Joelson Amendment appropriate funds to carry out sections 3, 6 and 7, the Commissioner could set up a reserve for contingencies under section 7, disaster assistance. On the other hand, section 7(c) of P.L. 874 permits the Commissioner, notwithstanding the Anti-Deficiency Act, to grant assistance under section 7 out of moneys appropriated for the other sections, such funds to be reimbursed out of subsequent appropriations for carrying out section 7. Since the statute permits such application of funds allocated to carrying out section 3. It would be hard for the Commissioner to justify withholding funds from allocation on the basis of the possibility that they might be needed for disaster assistance.

[5] Mandatory, that is, provided that the school district is in compliance with applicable federal statutes and regulations. Where a district is not in compliance, the Commissioner may have authority to withhold or terminate assistance, see *e.g.*, Civil Rights Act of 1964, title VI, 42 U.S.C. 2000d *et seq.*; 45 C.F.R. Part 80. Whether in the event of such a withholding or termination the Commissioner would be required to apply the funds to the unfunded entitlements of other districts is a point we need not decide at this time.

[6] Memorandum of March 29, 1966 from General Counsel Willcox to Assistant Secretary Huitt; Memorandum of August 6, 1958 from General Counsel Bants to the Secretary (HEW files do not indicate whether this memo was actually sent).

[7] See, also, 2 Ops. A. G. 482 (1831).

[8] We understand that the operation of the expenditure limitation imposed by title IV of P.L. 91-47 may require curtailment of certain controllable expenditures. Paradoxically, title IV would not conflict with the increases over budgeted amounts in appropriations provided by the Joelson Amendment, because the expenditure limitation would automatically be adjusted upward. Nevertheless, we are informed that it might prove difficult to comply with title IV without cutting back on expenditure of *budgeted* funds for P.L. 874 and other Office of Education programs. Whether in such a situation title IV could be viewed as conflicting with and thus superseding the requirements of P.L. 874 depends to a large extent on the Executive's spending options at that time. Two considerations cause us to hesitate to infer from title IV a grant of authority to the President to impound appropriations for formula grants for education. First, title IV, as passed by the Senate, contained specific language permitting the impounding of funds appropriated for formula grants and other mandatory programs, but exempting from this authority education programs. The conference report contained neither the grant of authority nor the exemption. Second, section 406 of the Vocational Education Amendments of 1968 (see p. 6, *supra*) would conflict with such a grant of authority, and there is legislative history to the effect that title IV was not intended to alter the effect of section 406. See Cong. Rec. vol. 115, pt. 14, pp. 18928-9. Nevertheless, we do not rule out at this time the possibility that in appropriate circumstances title IV might permit the impounding of such funds.

Mr. TALMADGE. Mr. President, the rural environmental assistance program, which has been on the statute books since 1936, is important to the entire Nation for its results in conserving soil and water resources. In this time of increasing concern about ecology and the environment, we should remember that the REAP program is one of the first ecology programs that this Nation ever had. Those of us who remember the dust bowls and the washed over soils of the 1930's know the importance of this program. We have made giant strides since those depression years.

However, we still need the rural environmental assistance program. Because of increased concern about the total environment, the Congress made additions to the REAP program in the Rural Development Act of 1972. Now the REAP program is designed to make major contributions to air as well as water pollution abatement and control. It provides the kind of cost sharing assistance for air pollution abatement measures and practices that was formerly provided for soil and water conservation and the prevention of sedimentation of rivers, lakes, and reservoirs by the prevention of soil erosion.

Rough estimates indicate that the suspended solids reaching rivers and streams of this country from surface run-off are at least 700 times the loadings caused by sewage discharge. A substantial share of this sediment load comes from the farms and ranches of the country. Our only hope of cutting it down is by the application of a planned, phased, and thorough water conservation program of land treatment farm by farm, area by area.

The REAP program is a cost-sharing program. It is a program in which the Government shares the cost of private owners undertaking conservation measures which benefit all citizens. The REAP program and the water bank program not only will assist in pollution abatement and control, they are also positive factors in environmental enhancement, watershed protection, better forestry practices and reforestation, preservation of wildlife, improvement of wildlife habitat—all are direct benefits of these programs.

Mr. President, the funds that have been appropriated for the REAP program are only a small part of the billions that have been authorized for water quality enhancement alone, but in terms of the dollars spent, it is quite likely that a careful cost-effectiveness study of these two programs would show that the Nation is getting more for its environmental dollars, dollar per dollar, than Federal dollars spent on other Government programs. I would like to mention just two ways in which these programs more than pay for themselves:

By keeping the soil on the land and thus reducing the cost of dredging rivers and harbors; and

The reduction of pollution of the Nation's water with pesticides, herbicides, and fertilizers that cling to eroded soil particles.

Mr. President, we hear a lot about the distrust of the Government these days. When we look at arbitrary and sudden terminations of programs that citizens depend upon, it is easy to understand why. Participants in the REAP and water bank programs had every right to expect that the programs would continue as usual.

Both programs were funded in the Appropriation Act signed by the President on August 22, 1972. The REAP program had been on the books since 1936; the water bank program was signed into law by President Nixon in 1970.

Every official publication of the Department of Agriculture right up to the time of cancellation would have led any observant to believe that these programs were secure for the calendar year 1973. The committee report contains a copy of the USDA press release of September 29 announcing that the REAP program would initially be funded at $140 million. The release indicated that the final decision on the program level would be made at a later date.

As late as December 5, 1972, the Department of Agriculture lauded the effectiveness of the REAP program in protecting the environment. A quotation from the environmental impact statement of the USDA on page 11 of the committee report illustrates this point.

Then on December 26, 1972, the Department issued a press release terminating the REAP and water bank programs. In fact, the USDA terminated the program retroactively—back to December 22, 1972.

At the same time agricultural stabilization and conservation committees around the country were sending out notices containing a list of the conservation practices for which cost sharing would be offered. I have in my possession an announcement of the rural environmental assistance program in Brooks County, Ga., which was dated December 26, the same day that the Washington Office of the USDA announced termination of the program.

Mr. President, I believe that the Federal Government must keep faith with the American people. I believe that the critical period of history through which the Nation is now passing is no time to allow actions that raise legitimate questions concerning the good faith of the Government.

The question here is not whether we should spend more money. The President's termination and reduction of programs for rural America is not merely an attempt at thrift. It is an attempt to restructure the Government, an attempt to ignore the will of Congress in favor of his own priorities. We must cut these

rural programs out if we are to have the billions more that the President wants for revenue sharing. We must terminate programs to rebuild rural America so that we may rebuild North Vietnam.

The Committee on Agriculture and Forestry, which reported this bill, has always been careful with taxpayers' money. I have always been a fiscal conservative. I am proud of my opposition to the President's guaranteed annual income plan, which would have placed 15 million more Americans on welfare and drained the Treasury of untold billions of taxpayers' dollars.

However, neither I nor the committee can stand idly by while rural programs of proven value are terminated on a whim of the executive branch. Mr. President, both the rural environmental assistance program and the water bank program have proven their worth over the years. They should be carried out as was intended by the Congress.

Moreover, this Congress cannot afford to permit the executive branch to constantly ignore its will. This Congress cannot afford to have its power stripped away so that it is nothing more than a great debating society. If we allow this to happen, we are derelict in our duty to the people who elected us. Therefore, I urge that the pending bill be adopted.

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

Mr. TALMADGE. I yield to my distinguished colleague from Vermont.

Mr. AIKEN. I merely wish to say that I intend to support the bill, but in order to make its purpose perfectly clear, I would like to ask the reporter of the bill, Senator TALMADGE, if the language "in an aggregate amount equal to the sums appropriated therefor" means that we are directing the Secretary of Agriculture to spend money even if he feels that certain practices are not necessary for carrying out the REAP program.

Mr. TALMADGE. Mr. President, the purpose of the bill is to require the Secretary of Agriculture to reinstate the REAP program, to carry out the program at a level intended by Congress. The bill does not take away the Secretary's discretion in administering the program in a manner designed to achieve the most benefits possible. The Secretary will still be obligated and he will have the power to make changes in the program to see that the American taxpayer receives the maximum benefits through conservation of soil and water resources and environmental protection and enhancement. The committee report deals with this issue on page 14:

> All practices and the amounts payable, however, must be approved by the Secretary. Reinstatement of the program under the provisions of the bill would not interfere with continual review by the Secretary of approved practices and such revision of them as may be necessary to assure the fullest attainment of the purposes of the Act to conserve and improve the environment.

Mr. AIKEN. I thank the Senator for the explanation, which I felt was very necessary. Before enacting this bill into law, I wanted to simply make sure that we were not obligating the Secretary to spend every dollar appropriated for this program on existing practices, without authority to review and change practices from time to time as it seemed advisable to do so. The general purpose of the bill is good—to continue the REAP program.

Mr. TALMADGE. There is no intention to do what the Senator referred to. The executive branch is determined to kill all REAP programs. This legislation is designed to let the President know that Congress has passed this law, that Congress has funded this law, and that we want it to continue into the future as it has in the past until we repeal it.

Mr. AIKEN. I might also say that 70 percent of the farmers of my State participate in the REAP program.

Mr. TALMADGE. Vermont is to be congratulated because the people of Vermont have been very appreciative of environmental quality. I congratulate the Senator for representing a State where the people have been pioneers in this field.

Mr. AIKEN. I will support the bill.

Mr. TALMADGE. I appreciate the contributions the Senator has made in this field.

Mr. AIKEN. I thank the Senator.

Mr. TALMADGE. Mr. President, I yield the floor, and 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. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. TALMADGE. Mr. President, I have discussed with my distinguished colleague, the Senator from Nebraska (Mr. CURTIS), the ranking minority member of the Agriculture and Forestry Committee, the possibility of agreeing on a time limitation. I think we are in agreement.

I propose 2 hours on the bill, to be equally divided between the chairman of the committee and the distinguished ranking minority member, 30 minutes on any amendment, to be equally divided between the mover of the amendment and the chairman of the committee, with the proviso that no nongermane amendments be proposed, and that time may be yielded on any amendment from the time on the bill.

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

Mr. TALMADGE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The clerk will state the committee amendment.

The legislative clerk read the committee amendment, as follows:

At the top of page 2, insert a new section, as follows:

> SEC. 2. The first sentence of section 3 of the Water Bank Act (16 U.S.C. 1302) is amended by striking out the words "shall have authority to" and inserting in lieu thereof the following: "shall, to the full extent permitted by available appropriations therefore,".

Mr. TALMADGE. Mr. President, I move that the committee amendment be agreed to and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Without objection, the bill as thus amended will be considered as original text for the purpose of further amendment.

Mr. CURTIS. Mr. President, I yield myself 10 minutes.

We are facing a situation that I feel very concerned about, and I am not happy or satisfied with the solution that we have before us today. Last year the Congress provided for the so-called REAP program.

We provided $225 million. The executive department went along with the program and made a public announcement that it would fund it, I believe, at $140 million. A number of people relied upon this promise. At the same time, there is no group in the country that has a greater stake in seeing Government expenses reduced than farmers. They are suffering from inflated costs perhaps more than any other persons or groups.

The continuous round of price increases and wage increases hit away at the net income of agriculture. And so far the farmer cannot add on these additional costs.

Consequently, I believe that most people in rural America are anxious to see the cost of Government reduced.

It is my understanding that the actions of the Executive in impounding money resulted in about 10 percent of the proposed reductions coming from agriculture and 90 percent of the reductions coming from nonagricultural programs.

It is my understanding that the actions of the Executive called for the phasing out of the Economic Development Administration, the reduction and phasing out and transfer of the Economic Opportunity programs, referred to as the Poverty Act, and also it meant that reductions in the program for housing and urban development would be reduced by approximately $1 billion.

The testimony of the Secretary of Agriculture, when he appeared before the Committee on Agriculture and Forestry, indicated a reduction to be proposed by the Executive of about $1.2 billion for agriculture. However, approximately half of that, $600 million, is brought about by the fact that the higher farm prices are making certain expenditures necessary at a lower level by reason of their automatic operation.

There were three principal programs in this reduction of expenditures or impounding of funds that came within the jurisdiction of the Committee on Agriculture and Forestry—the REA, the Disaster Relief, and the pending bill, REAP.

I said in the beginning that I was disappointed. I believe the time has come for us to revise financing of rural electrification. And as a result I supported the amendment offered by the distinguished Senator from Oklahoma (Mr. BELLMON) which would have limited the 2-percent money to those areas that are really rural, where they have only three or less customers per mile. That amendment failed.

I supported an amendment along somewhat similar lines offered by the distinguished Senator from Idaho (Mr. McCLURE). I hope that before long Congress will revise the law relating to REA financing.

I dislike the idea of Congress overspending and the President being forced to impound and then a failure to get the parties together to make a substantial reduction in expenses. Rather than offering bills to solve the matter, they do not give an inch on expenditures, but force, or attempt to force, the Executive to spend all of the money.

Congress ought also to substantially revise the program for disaster relief. There are many abuses under it. A change was made in the law to the effect that someone could get a disaster loan whether he needed it or not. It used to be that one had to show that he could not get a loan anyplace else. Also, in recent times there has been the idea of forgiveness of part of the loan. That has been inserted in the law. As a result, we have a disaster loan program where someone of great wealth can suffer a disaster, get a 40-year loan at 1 percent, and all of the taxpayers of the country have to help subsidize that loan, and that man will further have $5,000 of that loan forgiven.

It is very expensive. It is unwise. It is uncalled for. Congress should revise that law, and the Executive should help to lead the way.

We have before us today the so-called REAP program. As it stands now, the Executive has impounded the funds. If this bill passes, it is a mandate to spend the entire amount.

I do not subscribe to either practice. I think we ought to exercise our responsibility and provide for a reasonable reduction in all of these programs and meet the issue of reducing the expenditures and at the same time insist that a similar policy be followed in all other phases of the government that are not related to agriculture.

I do not like the idea that, because the agricultural people constitute such a minority throughout the country, they should become the whipping boy and the subject of all efforts to reduce Government expenditures.

There are some expenditures provided for in the pending bill that I think could be discontinued.

I do not believe that the Government should pay, for instance, for fertilizer and lime for farmers any more than they should pay for seed. I do not believe that they should pay for items of that nature any more than they should pay his tractor fuel bill.

I do think that there are other parts of the program that are in an altogether different category. And I refer to those programs that call for a structure that is permanent.

The public interest is involved here. For instance, I have in my hand a breakdown of the expenditures of REAP for the State of Nebraska, which I have the honor in part to represent.

The funds for this year include an item for animal waste storage and diversion facilities of $210,000.

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

Mr. CURTIS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. CURTIS. Mr. President, this is necessary in direct response to the law passed by Congress relating to pollution. It will assist farmers to meet this problem of waste runoff from feedlots and other like situations.

There is another item in the program for the State of Nebraska: Sediment retention and water control structures, $916,000. Here again, this is a public concern. It involves our water supply. Sediment is probably the greatest factor in polluting our water in every watershed in the country. Congress and the executive have mandated the people to do something about pollution in the interests of pure water, pure air, and better surroundings.

Another item is chemical runoff control measures, $599,000. This, too, falls in the same category. The public has an interest, and these expenditures are in the public interest. The situation is somewhat similar with respect to water impoundment reservoirs, permanent cover, and terracing.

The following is a complete list of cost-shares with Nebraska farmers during 1972 and I ask unanimous consent that it be printed at this point in the RECORD.

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

Total cost-shares of $5,327,000 were paid to Nebraska farmers. Almost $5,300,000, or 99.4 percent of these funds, were used for enduring type practices. Some major practices and cost-shares:

Permanent cover, $660,000.

Water impoundment reservoirs, $1,261,000.

Terraces, $660,000.

Animal waste storage and diversion facilities, $210,000.

Sediment retention and water control structures, $916,000.

Sediment or chemical runoff control measures, $599,000.

The average cost-share payment per farm was $473. The average cost-share payment for low-income farmers in Nebraska was $961 per farm.

Mr. CURTIS. It is my understanding that the distinguished Senator from Oklahoma (Mr. BELLMON) will offer an amendment limiting the use of these REAP funds to permanent type structures. In other words, a distinction is being made between sending the farmer a check to help pay ordinary recurring expenses, and those conservation measures where there is a lasting benefit, and where there is a definite public purpose.

I shall support the Bellmon amendment. I hope that it will pass, because that will make it a sounder program. I shall also support any other proposal that would be directed toward confining this program to a truly conservation program.

I hope that the logjam between the Executive and Congress can be broken, that a reasonable program can be carried on, and that, at the same time, a reasonable amount of savings can be brought about. I think that is in the interests of our agricultural groups.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. AIKEN. Mr. President, will the Senator yield very briefly?

Mr. CURTIS. I yield myself 1 minute, and yield to the Senator from Vermont.

Mr. AIKEN. Just one question. The Senator says he would approve the use of the funds to establish permanent cover?

Mr. CURTIS. I said permanent types of structures.

Mr. AIKEN. But that would mean a permanent cover?

Mr. CURTIS. It probably would, in many instances.

Mr. AIKEN. Yes. I was just wondering how one would establish a permanent cover without the use of any lime or fertilizer.

Mr. CURTIS. You would not. It is just a question of who pays for it.

Mr. AIKEN. What would the REAP program pay for otherwise? The grass seed?

Mr. CURTIS. No, I think it should be largely those items of expense that are not recurring.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. AIKEN. I shall not take any more of the Senator's time.

Mr. CURTIS. Mr. President, I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, at a time when ecology and our environment are such vital issues in our country, it seems to me the administration would maintain, and not eliminate a program such as REAP. REAP and its predecessor, the agricultural conservation program—ACP—were most important programs in conserving soil and water.

Many of the practices available under the REAP program were intended to control and abate pollution. An example of this would be the rural garbage disposal pits.

In North Dakota one of the more important and popular practices was tree planting, I would like to read a portion of a letter I received from Mr. Elmer Worthington, president of the Missouri Slope Izaak Walton League at Bismarck, N. Dak. Mr. Worthington is a good friend and the most ardent advocate of tree planting I know. Permit me to quote a part of his letter:

I'm thinking about the possible elimination of the REAP and water bank programs and how that might hurt two good programs in North Dakota.

The Missouri Slope Chapter of the Izaak Walton League wants to get behind your efforts to save these two parts of the REAP program. We think some of the annual REAP cost-sharing could be spared if need be, but do urge the retention of the tree planting practice in particular.

Practices available under REAP were not paid for in total with Government funds. Participation in this program was cost-shared by the farmers and the Government. For example, in North Dakota, farmers who participated in planting of trees and shrubs received a cost-share of 90 percent of the total cost of planting

of the trees, and the participator paid the remaining 10 percent. Other practices were cost-shared at various levels. For instance, establishment of the vegetative cover on land was cost-shared at about a 60 percent level and the farmer paid the remaining 40 percent.

The REAP program was not a give-away program, but one by which the Government shared the cost of these worthwhile practices with the farmers.

Mr. President I ask to have inserted as a part of my remarks a summary of how REAP funds are spent in North Dakota.

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

COST-SHARE PRACTICES AVAILABLE UNDER RURAL ENVIRONMENTAL ASSISTANCE PROGRAM IN NORTH DAKOTA

These are all figures from 1971 since they do not have the 1972 figures programmed out yet.

1. Planting of trees and shrubs in North Dakota rate of cost-share is about 90% $946,368

2. Establishing of vegative cover on land average cost-share is about 60% $924,813

3. Water development practices rate of cost-share is about 70% $545,434

4. Annual wind and water erosion control measures average cost-share is about 30% $398,024

5. Earth movement practices to prevent soil erosion average cost-share is 80% $254,000

6. Pollution abatement practices (just started in 1971) average cost-share is 80% $110,810.

7. Wildlife practices to promote and protect wildlife average cost-share is 50% $42,000

In 1972 the total of cost-shares earned by farmers was up about $2 million. This was quite an increase and was mostly due to an increase in participation in pollution abatement practices and establishment of vegetative cover.

Mr. YOUNG. Mr. President, the waterbank program is a new program and one I originally cosponsored in 1970, which resulted in establishing this program. Waterbank is intended to develop wetlands to propagate waterfowl. Many acres of wetlands in North Dakota were being drained each year. Although they were not producing income they were still subject to taxes. With increased cost of farm operations, farmers just had to drain these lands to improve income.

By participating in the Waterbank program, farmers would receive some compensation for not draining wetlands and would be propagating the waterfowl population.

The Waterbank program is not a widespread program, but is limited to States and local areas which have wetlands desirable for waterfowl production habitat.

North Dakota is the largest duck producing State in the United States. The Waterbank program has been very well received in the State and has proven to be very popular.

Mr. President, this amendment adding the Waterbank program to the REAP bill before us has the support, and the active support, of the Izaak Walton League, the Audubon Society, the National Wildlife Federation, and the Wildlife Management Institute. It was made a part of the pending bill through an amendment I offered in the Senate Agriculture Committee.

Mr. President, this is not an expensive program at all. The total authorization is only $10 million. It was started in fiscal year 1972, and they spent only $90,000 that year. This last year the expenditure was only $1,198,000. It is beyond me to understand why the administration wanted to eliminate this program that has such widespread support and is so popular all over the United States.

Mr. President, I support this measure without amendments. I would like to support the amendment of my friend from Oklahoma, but I believe the Secretary of Agriculture has the authority to do all that he proposes in the amendment, and I hope it will be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 1, line 11:

After "therefor" insert "for permanent soil and water conservation practices".

Mr. BELLMON. Mr. President, this amendment, in my opinion, will greatly diminish the criticism which the REAP program has unfairly received. During the hearings on this matter before the Committee on Agriculture and Forestry, the Secretary of Agriculture was asked whether he felt the administration would put the REAP program back into effect if this amendment were added. While he was not in a position to say categorically, he gave the strong impression that the administration would accept the reenactment of REAP if this amendment were added.

I consider the REAP program to be one of the finest uses of Government funds. As a farmer, I have actively participated in the program for 30 years, and I know the immense improvements that have been made in this Nation's agriculture and in the condition of soil and water resources, because of the fairly limited investment that this Government has made in these resources through the REAP program, formerly called ACP.

This program has provided the incentive and guidance which has immensely improved the stewardship of this Nation's soil and water resources by the farmers and landowners of the country. It is unfortunate and regrettable that sometimes those who own or operate farms do not fully understand the impact of some of their agricultural practices, or the damage that they may do to the land in trying to produce a maximum crop.

The agricultural community has been in a very unhealthy financial state. Frequently it is difficult for landowners and farm operators to justify the kind of soil and water conservation practices that long-range stewardship demands, unless they can get assistance from the Federal Government—such as in terracing, waterways, livestock ponds, and grazing. Without this program, our soil and water conservation program will be going steadily downhill.

Those of us who are in this body today have had the advantage of abundant agricultural production throughout our lifetimes, but sometimes we forget that this production comes from a 6-inch layer of soil, and that future generations will be equally dependent on the fertility of this very thin layer.

The REAP program, in my opinion, along with the Soil Conservation Service, is the best tool we have to conserve this essential natural resource for future generations.

I am able to remember the dust bowls, and I also remember the deep red gullies that defaced much of the topography of my State of Oklahoma and elsewhere in the Midwest. I have seen those conditions largely ended or at least controlled by the REAP program, even though there is still a great deal of work to be done.

The REAP program, with the fairly limited amount of money available, is the best means I know to keep conservation practices in operation. The figures for my State of Oklahoma show that the work being done under REAP is generally the same now as it was 20 years ago when the program was first authorized, showing that the demand is as strong as ever. Participation is limited only by the amount of funds available.

Before I go on with my amendment, I want to endorse the statement made by the distinguished Senator from North Dakota in support of the water bank program.

Mr. President, as a member of the Migratory Bird Conservation Commission, I know what the needs are in the United States to preserve wetlands so that the waterfowl population will be maintained. But it will not be met by present programs because of a lack of money.

I consider the water bank to be a basic continuation of this highly important aspect of our Nation's environment. It is not fair to expect private landowners to leave this land in a relatively nonproductive state even though it is in the national interest. Therefore, I feel that this entire appropriation of funds is necessary to encourage the land to be left in a condition that will serve as a nesting area for waterfowl. It is in the national interest to preserve the essential migratory waterfowl nesting areas.

This amendment does one thing. It would eliminate the objectionable features of the REAP program, which have been criticized and which ultimately brought about a discontinuance of the program. We are trying to take out the nonpermanent features. I realize that the program provides some discretion by the administrator, but the Agriculture Secretaries, whoever they may have been, have not taken out these nonpermanent features. As a result, the program which generally is a desirable one, has been criticized unfairly and has been weakened. By taking out the nonpermanent features, we would gain support for the program from the administration; we would eliminate the criticism that has been aimed at the program, and, I believe, we would not do serious damage to its overall objective.

I feel that this amendment would

strengthen the REAP program and would improve the possibility for its continuance.

Mr. President, I urge adoption of the amendment.

Mr. TALMADGE. Mr. President, I desire that the staff attachés of the Senate notify Senators in the vicinity of the Chamber to come on the floor, and as soon as we have 11 Senators in the Chamber, it will be my purpose to ask for the yeas and nays on the Senator's amendment.

I have great respect and admiration for my distinguished colleague from Oklahoma. He is one of the few practicing farmers we have in the Senate and has made an outstanding contribution to the work of the committee. But, in this instance, he happens to be grossly misinformed.

The Secretary of Agriculture has the authority to administer up a REAP program. He has the power and authority to determine what REAP programs we shall have, their nature, the amount of the contribution the U.S. Government will make, and the contribution the individual farmers or ranchers must make.

It is the Secretary's authority, and the Secretary's authority alone, that determines what programs we will have. He can make them temporary or permanent as he sees fit.

The Senator's amendment would limit the power of the Secretary. He has the power now to provide cost sharing to such programs as he may desire as long as these programs are consistent with the intent expressed in the Soil Conservation and Domestic Allotment Act. We are not dealing with the power of the Secretary to make decisions as to what programs he will fund, however, because he has gone beyond that. The Secretary of Agriculture has announced that he will not fund any program. temporary, permanent, or otherwise. That is what this legislation is all about.

It does not deal with the Secretary's power but it does deal with whether the Secretary has the authority to terminate a program that the Secretary requested money for, this Congress appropriated money for, and the President signed into law on August 22, 1972, and which the Secretary was advertising for people to come in and sign up—on December 26 last year, the very date they said this act of Congress would, henceforth, be null and void.

That is what the Senate is being asked to act on today. It is being asked to say whether we will abrogate the power to make laws and turn them over to the Secretary of Agriculture for the Secretary to determine whether an act of Congress is valid, whether it should be executed, or junked into the garbage can at his discretion, and his discretion alone.

This program goes back to 1936. It has been amended from time to time—and in the Rural Development Act which the Senate passed by a vote of 77 to 0 last year. We wrote some new programs into it to protect the environment, and to protect development not only of soil and water but of the air as well.

What is the delegation of power to the Secretary? It directs the Secretary to preserve and improve soil fertility. That is No. 1.

Second, promotion of the economic use and conservation of land;

Third, diminution of exploitation and wasteful and unscientific use of natural soil resources;

Fourth, the protection of rivers and harbors against the results of soil erosion in aid of maintaining the navigability of water and water courses and in aid of flood control;

Fifth, to reestablish, at as rapid a rate as the Secretary of Agriculture determines to be practicable and in the general public interest, the ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms that prevailed during the 5-year period August 1909–July 1914, inclusive; as determined from statistics available in the U.S. Department of Agriculture and the maintenance of such ratio.

Sixth, the prevention and abatement of agriculture-related pollution.

Mr. President, that is the power delegated to the Secretary of Agriculture by the law. It does not say whether those programs should be permanent. It does not say whether those programs will be temporary. But the Secretary of Agriculture is entitled to make the determination of what programs he will fund, what programs he will not fund, what proportion the Government will fund, and what proportion the farmer will fund.

So the amendment offered by the Senator from Oklahoma not only is superfluous but also limits the power of the Secretary to make his decisions as to what programs of this nature he will fund.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CURTIS. Mr. President, I yield myself 3 minutes.

I rise in support of the amendment of the distinguished Senator from Oklahoma. It is true that there is certain discretion in the law, but it is also true that some $11 million, at least, is being spent on these conservation practices that are not permanent in nature. I wonder whether the distinguished Senator from Oklahoma would agree with that statement.

Mr. BELLMON. Mr. President, so far as I know, the statement is correct. I have available a record of the expenditures, and I ask unanimous consent that it be printed in the RECORD.

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

UNITED STATES AND CARIBBEAN AREA

TABLE 1.—SUMMARY OF THE 1971 RURAL ENVIRONMENTAL ASSISTANCE PROGRAM

SEC. 1.—PARTICIPATION AND PAYMENTS

Item	Unit	Regular REAP	Naval stores program	ECM F–4	Total regular NSCP and ECM
Participating farms	Number	611, 434	727	38, 485	645, 193
Farms participating at least once during 1967–71	do	2, 099, 990			2, 099, 990
Cost-shares	Dollar	134, 629, 092	373, 240	14, 733, 756	149, 736, 088
Small cost-share increase	do	4, 767, 144	3, 887		4, 771, 031
Amount transferred to SCS	do	5, 41., 764		390, 744	6, 810, 508
Amount transferred to other agencies	do	295, 137			295, 137
Amount used or to be used for program services	do	218, 160			218, 160
Total gross assistance	do	146, 329, 2.7	377, 127	15, 124, 500	161, 830, 924
Average per farm	do	39	519	393	251
Participating low-income farmers [1]	Number	9, 745			9, 745
Cost-shares for low-income farmers [1]	Dollar	2, 094, 044			2, 094, 044
Pooling agreement:					
Counties	Number	743		35	778
Agreements	do	2, 832		195	3, 0.7
Farms	do	17, 71.		952	18, 668
Cost-shares	Dollar	5, 080, 114		819, 773	5, 899, 887

SEC. 2.—CONSERVATION PRACTICES; REGULAR

Practice name	Practice number	Number of counties	Number of farms	Unit	Extent	Cost-shares	Percent of U.S. total	Average rate per unit
Permanent cover in orchards or vineyards	A–1	3	21	Acre	476	4, 754	(2)	9. 99
Permanent cover	A–2	2, 754	141, 781	do	2, 218, 859	25, 544, 115	18. 98	11. 51
Increased acreage of rotation cover	A–3	559	19, 676	do	489, 574	2, 200, 976	1. 64	4. 50
Liming materials	A–4	1, 127	79, 479	do	1, 777, 316	9, 869, 723	7. 41	5. 61
Contour stripcropping	A–5	285	1, 966	do	65, 347	378, 002	. 28	5. 78
Field stripcropping	A–6	201	795	do	83, 448	174, 001	. 13	2. 09
Trees or shrubs for forestry purposes	A–7	1, 650	17, 604	do	142, 789	3, 043, 097	2. 26	21. 31
Trees or shrubs to prevent erosion	A–8	728	14, 757	do	24, 221	2, 083, 393	1. 55	86. 02
	A–8			Acres served	360, 738			5. 78

SEC. 2.—CONSERVATION PRACTICES; REGULAR—Continued

Practice name	Practice number	Number of counties	Number of farms	Unit	Extent	Cost-shares	Percent of U.S. total	Average rate per unit
Improvement of cover for soil protection	B-1	1,553	115,073	Acre	1,875,196	13,447,798	9.99	7.17
Improvement of cover on rangeland	B-2	500	3,484	do	1,756,921	1,220,311	.91	.69
Control of competitive shrubs on range or pasture	B-3	737	12,494	do	1,334,228	4,306,912	3.20	3.23
Tillage operations on range or pasture	B-4	38	66	do	19,099	7,774	.02	1.45
Wells for livestock water	B-5	924	6,233	Number	6,552	2,084,800	1.55	318.19
	B-5			Acres served	1,884,917			1.11
Springs or seeps for livestock water	B-6	536	2,151	Number	2,407	448,582	.33	186.37
	B-6			Acres served	401,216			1.12
Reservoirs for agricultural uses	B-7	2,271	32,931	Number	34,335	10,511,731	7.81	306.15
	B-7			Acres served	3,122,582			3.37
Pipelines or other livestock water facilities	B-8	744	2,957	do	1,506,610	1,011,797	.75	.67
Constructing permanent fences	B-9	57	479	do	187,119	122,574	.09	.66
Timber stand improvement	B-10	1,278	8,357	Acre	140,520	1,832,220	1.36	13.04
Constructing stock trails		14	42	Acres served	79,780	31,305	.02	.39
Control of noxious weeds		125	3,341	Acre	167,510	429,653	.32	2.56
				Acres served	638,488			.67
Permanent Sod waterways	C-1	1,392	17,211	Acre	30,403	5,047,416	3.75	164.39
	C-1			Acres served	873,850			5.78
Permanent cover on dams and other problem areas	C-2	702	4,349	Acre	12,896	720,362	.54	55.86
	C-2			Acres served	131,694			5.47
Contour planting orchards, vineyards, etc	C-3	3	4	Acre	59	335	(2)	5.68
Terraces	C-4	771	11,413	Acres served	458,125	3,665,969	2.72	8.00
Diversion terraces, ditches, or dikes	C-5	1,059	5,181	do	180,179	929,265	.69	5.16
Erosion control dams, storage type	C-6	417	2,438	Number	2,539	2,318,454	1.72	878.54
	C-6			Acres served	233,374			9.93
Mechanical protection of inlets or outlets	C-7	690	6,569	Number	12,166	2,243,218	1.67	184.38
	C-7			Acres served	478,131			4.69
Streambank or shore protection	C-8	152	1,023	do	153,437	703,281	.52	4.58
Permanent open drainage	C-9	733	6,584	do	352,705	1,808,587	1.34	5.13
Underground drainage	C-10	689	16,114	do	215,036	5,563,674	4.13	25.87
Shaping or land grading to permit drainage	C-11	129	946	do	30,305	410,094	.30	13.53
Installing or reorganizing irrigation systems	C-12	506	15,182	do	1,434,938	6,830,649	5.08	4.76
Land leveling	C-13	241	2,910	Acre	101,524	1,836,018	1.36	18.07
Irrigation ditch lining	C-15	184	5,918	Acres served	336,365	2,794,464	2.08	8.29
Spreader ditches or dikes	C-16	47	141	do	13,591	96,888	.07	7.13
Subsoiling	C-17	40	738	Acre	10,943	32,173	.06	2.01
Winter cover	D-1	1,175	79,187	do	2,231,347	5,020,048	3.73	2.19
Summer cover	D-2	473	12,727	do	196,160	42,072	.33	2.25
Green manure crops	D-3	35	2,100	do	79,292	70,123	.05	.88
Vegetative cover for entire crop year	D-4	35	10,685	do	122,480	240,998	.18	1.97
Stubble mulching	E-1	92	8,023	do	367,281	331,379	.25	.50
Contour farming	E-2	76	525	do	23,864	46,101	.03	1.93
Wind erosion control operations	E-3	21	1,150	do	156,178	112,584	.08	.72
Applying mulch	E-4	20	143	do	2,529	11,786	.01	4.43
Home gardens	E-5	42	1,504	do	755	30,443	.02	40.31
County conservation practices	F-2	445	7,009	Acres served	624,784	1,559,250	1.16	2.50
Practices to meet new conservation problems	F-3	55	1,786	do	173,364	302,287	.22	1.74
Wildlife food plots or habitat	G-1	892	5,028	Acre	24,863	278,159	.20	10.99
	G-1			Acres served	424,203			.64
Shallow water areas for wildlife	G-2	296	1,143	Number	1,492	459,011	.34	307.65
	G-2			Acres served	58,472			5.70
Wildlife ponds	G-3	1,214	5,382	Number	5,420	2,906,718	2.16	536.29
	G-3			Acres served	263,309			11.04
Other wildlife practices	G-4	211	1,812	do	90,748	116,071	.09	1.28
Conservation practices to enhance natural beauty	H	32	152	do	1,667	13,941	.01	8.36
Aerobic or anaerobic lagoons for animal wastes	I-1	522	1,001	Number	1,053	1,082,231	.80	1,027.76
	I-1			Animal units	255,170			
	I-1			Tons of waste	3,325,920			
Animal waste storage facilities	I-2	722	1,793	Number	1,348	2,691,042	2.00	1,456.19
	I-2			Animal units	456,150			
	I-2			Tons of waste	5,903,885			
Diversions for the management of animal wastes	I-3	356	945	Number	986	464,784	.35	471.38
	I-3			Animal units	154,261			
	I-3			Tons of waste	1,959,087			
Other animal waste management practices	I-4	7	9	Number	9	4,842	(2)	538.00
	I-4			Animal units	796			
	I-4			Tons of waste	10,348			
Sediment retention structures	J-1	214	1,351	Number	1,409	816,849	0.61	579.74
	J-1			Acres served	86,422			9.42
Sediment or chemical runoff control measures	J-2	235	5,675	Acre	18,529	2,279,452	1.69	123.05
	J-2			Acres served	246,401			9.25
Measures to stabilize a source of sediment	J-3	182	1,676	Acre	9,644	807,698	.60	83.75
	J-3			Acres served	43,327			18.64
Disposal of woodland residues without burning	K-1	17	28	do	571	3,386	(2)	5.93
Disposal of crop residues without burning	K-2	57	738	do	35,505	128,359	.10	3.62
Disposal pits for solid wastes	L-1	29	528	Number	524	134,307	.10	256.31
Other pollution abatement practices	M	49	382	Acres served	86,755	355,806	.26	4.10
Total, regular		3,069				134,629,092	100.00	

SEC 2A.—CONSERVATION PRACTICES; EMERGENCY CONSERVATION MEASURES

Emergency conservation measures	F-4	302	38,485	Acres served	8,045,830	14,733,756	100.00	1.83

[1] Those farmers who established eligibility for increased rates of cost sharing under the special provision for low-income farmers.

[2] 0.005. percent or less.

Footnotes at end of table.

Mr. CURTIS. Is it not true that what the distinguished Senator from Oklahoma is doing is drawing a distinction between those types of conservation work which have a lasting benefit, as contrasted to the more or less ordinary expenses of running a farm that recur year after year and which fall in an altogether different category?

Mr. BELLMON. The Senator from Nebraska is entirely correct. The kinds of practices we are talking about are those listed as summer cover crops. This is a crop that has been planted, and after it has grown, it is plowed under. There is nothing permanent about it. Green manure crops, vegetative cover for the entire crop year, stubble mulching—these are the practices I refer to as being temporary and not suitable for payment under the program.

Mr. CURTIS. What would be the effect of expenditures for lime and fertilizer under the Senator's amendment?

Mr. BELLMON. The expenditure for liming and other fertilizer materials would be eliminated, or prohibited, under the amendment.

Mr. CURTIS. In other words, they would fall in the same category as the farmer's expense for seed or tractor fuel or anything else?

Mr. BELLMON. That is correct. The farmers pay for fertilizer for corn and other crops. But REAP provides payment for liming materials or for legume

crops. Such a crop may be planted 1 year and is plowed under, and the corn crop goes on. The nature of the liming program is, in effect, to increase the farmer's income. It does not have the kind of permanent application that I believe the program is intended to furnish.

Mr. CURTIS. Would the Senator also agree that the type of practices he would continue are those in which the public has a vital stake? I refer to their direct application to pollution and the long-time condition of our soil and resources.

Mr. BELLMON. Again, the Senator is correct. We are talking about retaining such practices as the construction of terraces and the control of certain types of erosion by planting of permanent waterways.

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

Mr. TALMADGE. Mr. President, will the distinguished Senator from Oklahoma yield to me on my time?

Mr. BELLMON. I do not have the floor. I would be glad to do so.

Mr. TALMADGE. I yield 5 minutes to the distinguished Senator. Will he yield on my time?

Mr. BELLMON. I yield.

Mr. TALMADGE. Will the Senator tell me what is permanent and what is temporary?

Mr. BELLMON. As I have said to the Senator from Nebraska, the practices generally considered to be temporary are such practices as planting winter cover crops, summer cover crops, green manure crops, and vegetative cover for the entire crop year, or stubble mulching and contour farming.

The permanent practices are such things as streambank or shore protection, permanent open drainage, the construction of terraces, the construction of waterways, the construction of water storage reservoirs, and the establishment of permanent grass cover to control erosion and upgrade the livestock carrying capacity of permanent pastures. These are practices considered to be permanent.

Mr. TALMADGE. The Senator is a good farmer. How long does lime affect the acidity of the soil?

Mr. BELLMON. It depends on the rainfall and the type of soil. In the area I come from, lime may last from 4 to 15 years. There are other areas where the application of lime may be necessary every 3 to 4 years.

Mr. TALMADGE. Is that permanent or temporary?

Mr. BELLMON. I consider it to be temporary.

Mr. TALMADGE. Is permanent pasture permanent or temporary?

Mr. BELLMON. The very definition of "permanent pasture" would indicate that it is permanent.

Mr. TALMADGE. Then, the Senator considers permanent pasture permanent?

Mr. BELLMON. That is correct.

Mr. TALMADGE. The Senator is familiar with the fact that clover will not grow in acid soil, is he not?

Mr. BELLMON. Indeed, I am.

Mr. TALMADGE. Liming is required in order for clover to grow in acid soil, is it not?

Mr. BELLMON. It also requires phosphate in most cases.

Mr. TALMADGE. That is correct. Is it possible to establish a permanent pasture without lime and phosphate?

Mr. BELLMON. It is possible. It is probably a poor economic practice.

Mr. TALMADGE. I agree with the Senator.

I think that what the Senator's amendment would do would be to limit the power of the Secretary, a power that he now has.

The Senator has read the committee report, of course, and is familiar with section 7, on page 32 of the committee report, is he not?

Mr. BELLMON. Yes.

Mr. TALMADGE. The Senator is aware that, under existing law, the Secretary of Agriculture could take any action that the Senator's amendment would permit the Secretary to take, is he not,

Mr. BELLMON. I am aware of this. I am also aware that no Secretary has done so and I am aware of the reason. The reason is that these practices are generally sought after by farmers who have tremendous influence on their county committees and on their State committees ,and that influence on their county committees and on their State committees, and that influence is reflected at the national level. Therefore, the Secretary has been very reluctant, I believe to make the changes that he personally knows ought to be made. I think it is up to the Congress to make these changes.

Mr. TALMADGE. The Senator does agree that the Secretary could make that decision,

Mr. BELLMON. Under the terms of the law, I understand that he could.

Mr. TALMADGE. If the Secretary has the capacity to kill a program, he certainly can modify his program to the degree that the Senator's amendment would provide, can he not?

Mr. BELLMON. This Secretary could, yes, but there will be another Secretary some day. There has been a whole series of Secretaries, and there is no certainty that temporary practices would not be put back into the program immediately.

I believe the Senator and I have the same objective in mind. I would like to take out the objectionable features of the program so that we can keep REAP's good features in operation.

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

Mr. TALMADGE. I yield myself 5 additional minutes.

I feel that some change in the REAP program such as the Senator suggests in his amendment might be in due course the matter of legislation. But what we are dealing with today is the compelling issue of whether or not the executive branch of the Government—to wit, the Secretary of Agriculture—has the power to kill, to make null and void, an act of Congress, where the Secretary, himself, requested $140 million for this purpose, and Congress, in its wisdom, appropriated $225.5 million for this purpose, and the President signed into law, on August 22 of last year, the act of Congress appropriating the money for this purpose.

I think Congress must assert itself in these matters, unless we are to be rendered into a futile debating society.

If the Senator from Oklahoma wishes to propose this amendment in the form of legislation before our committee to modify the REAP program to make it permanent in nature and less temporary, I would have no objection to that. But I do not think we should get into that issue now when the overriding issue is whether or not Congress is prepared to abdicate its responsibility to make law. I do not share that view.

The Senator has admitted that the Secretary now has the power to do what his amendment would do. I hope the Senator would withhold his amendment and offer it at another time so we can put the issue squarely up to the executive branch on whether or not they have the power to kill acts of Congress. I do hope the Senator will withdraw his amendment and offer it later.

Mr. BELLMON. I wish to say to the distinguished Senator from Georgia that this amendment was offered in committee.

Mr. TALMADGE. I am aware of that.

Mr. BELLMON. I agree there is, perhaps, a constitutional question on whether the President and the executive branch overreached their authority. I tend to agree with the Senator that perhaps they have, but it may take several months to settle that issue and in the meantime if we keep the REAP program it will do a service to agriculture.

Mr. TALMADGE. The Senator admitted that the Secretary has the power now to do at any time what his amendment would do.

Mr. BELLMON. I am not sure this decision is made by the Secretary of Agriculture. I feel it was made by some person in the Office of Management and Budget.

Mr. TALMADGE. I share that view.

Mr. BELLMON. But I believe this amendment would persuade that person to change his mind.

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

Mr. TALMADGE. How much time does the Senator from Vermont desire?

Mr. AIKEN. One or two minutes.

Mr. TALMADGE. I yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. AIKEN. Mr. President, we have been discussing practices which may vary in different parts of the country but as the chairman said, the Secretary of Agriculture has every right to adjust the programs to fit each particular section of the country.

Over much of the country, however, it is considered important to have a temporary cover crop or nurse crop as we call it in the Northeast, to establish a permanent cover for permanent pastures or other purposes. It would be impossible to use such plants trefoil and coronilla which are used extensively for binding gravelly areas of soil, without lime and

certain chemical fertilizers because they are leguminous plants and have to have that.

It is now a common practice to use chemical fegrtilizers in reforesting, particularly for growing Christmas trees where they have to use fertilizer, so you cannot restrict its use without making a great deal of trouble for some parts of the country.

Mr. President, if you seed grass or clover in the spring, where I come from you may use oats for cover, and in August and in the fall it is rye, and in some parts of the Northeast, they use wheat, too. But it is difficult to establish a permanent cover without fertilizer or lime.

Mr. TALMADGE. Mr. President, I am prepared to yield back my time if the Senator from Oklahoma is.

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

Mr. TALMADGE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wisconsin (Mr. NELSON), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Mississippi (Mr. STENNIS) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are absent on official business.

The result was announced—yeas 25, nays 59, as follows:

[No. 28 Leg.]

YEAS—25

Baker	Cotton	McClure
Bartlett	Curtis	Packwood
Bellmon	Domenici	Percy
Bennett	Dominick	Roth
Brock	Fannin	Scott, Va.
Buckley	Griffin	Stevens
Byrd, Harry F., Jr.	Gurney	Stevenson
	Helms	Taft
Cook	Hruska	

NAYS—59

Aiken	Fong	Mondale
Allen	Hartke	Montoya
Bayh	Haskell	Moss
Beall	Hatfield	Muskie
Bentsen	Hathaway	Nunn
Bible	Hollings	Pearson
Biden	Huddleston	Pell
Brooke	Hughes	Proxmire
Burdick	Humphrey	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Cannon	Jackson	Schweiker
Case	Javits	Sparkman
Chiles	Johnston	Stafford
Church	Kennedy	Symington
Clark	Long	Talmadge
Cranston	Magnuson	Thurmond
Dole	Mathias	Tunney
Eagleton	McGee	Williams
Eastland	McIntyre	Young
Ervin	Metcalf	

NOT VOTING—16

Abourezk	Mansfield	Scott, Pa.
Fulbright	McClellan	Stennis
Goldwater	McGovern	Tower
Gravel	Nelson	Weicker
Hansen	Pastore	
Hart	Saxbe	

So Mr. BELLMON's amendment was rejected.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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.

Mr. HELMS. Mr. President, I sincerely regret that the amendment proposed by the distinguished Senator from Oklahoma (Mr. BELLMON) was rejected because, had it passed, the survival of the worthwhile and acceptable features of the REAP program would have been assured.

That is to say, Mr. President, the really essential features of REAP would have been retained, and I dare say that the program would have been given near-unanimity in its approval by this body—and, I suspect, by the administration.

But as matters now stand, Mr. President, what we have is just another delay, another purely political confrontation, and the great probability of a Presidential veto.

I would have been delighted to vote in support of the REAP program, had it been amended by this body as proposed by the Senator from Oklahoma. But that not being the case, I am obliged to vote in the negative.

Mr. TALMADGE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, for the information of the Senate, only one Senator has asked for time on this side. He desires, I think, 3 minutes. I desire to speak for 2 or 3 minutes only. The Senator from Nebraska and I have agreed that, if Senators will remain in the vicinity of the Chamber, we will have a vote on final passage before long.

Mr. CURTIS. Mr. President, I yield 1 minute to the Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, I rise to support the pending bill and ask unanimous consent that House Concurrent Resolution 1021, passed by the Kansas House of Representatives on February 1, 1973, be printed at this point in the RECORD.

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

HOUSE CONCURRENT RESOLUTION No. 1021

A Concurrent Resolution urging the President of the United States to reinstate the Rural Environmental Assistance Program

Whereas, The President of the United States, the Honorable Richard M. Nixon, has, in effect, terminated the Rural Environmental Assistance Program by freezing the funds appropriated by the Congress for such Programs; and

Whereas, It takes four hundred years to rebuild one inch of topsoil, and there is no longer any virgin soil available to develop for use in crop production and therefore it is imperative that we conserve our soil which is a most vital natural resource; and

Whereas, The present-day farmers and ranchers are not solely responsible for the condition of the soil since this is a condition which has been developing since this country was founded; and

Whereas, All of the people of this generation and of future generations, both rural and urban, have a huge stake in conserving the soil; and

Whereas, Protection of the environment will result in significant public benefits and thus part of the cost of programs designed to accomplish such environment protection should be borne by the public; and

Whereas, The REAP is not a typical subsidy program but is on a cost-sharing basis, approximately fifty-fifty for original construction of soil conservation projects, with the lifetime cost of maintenance of the structures, estimated to be at least equal to the original cost, being borne solely by the farmers and ranchers; and

Whereas, Cost-sharing encouragement is vital for many reasons such as several years of reduced production on land which has been reconstructed, a fifteen percent increase in the cost of farming terraced land as opposed to non-terraced land, the level of completion of conservation projects per year remains about the same as it was twenty years ago, a percentage of the acreage which is used for waterways does not give the normal return per acre, the need for conservation does not change with farm prices and while favorable prices exist today there is no guarantee that they will so remain for any definite period of time; and

Whereas, The farmers and ranchers are sympathetic to the administration's objective of preventing more inflation and would favor eliminating conservation practices which are of a temporary nature from the program and assuming the full cost of maintaining such temporary practices themselves; and

Whereas, The twenty-one federal reservoirs in Kansas which were built at a cost of millions of dollars to the tax-paying public are in jeopardy if soil erosion is not controlled since sediment is probably the largest single pollutant in the waters of the nation; and

Whereas, The state of Kansas has completed approximately forty percent of the needed conservation projects but there are more than fifty million acreas which still need treatment; and

Whereas, The withholding of the federal REAP funds, amounting to four and one-half million dollars, when combined with the matching amount which would be contributed by farmers and ranchers on the cost-sharing basis, would amount to a total of nine million dollars being withheld, and would, by applying a four to one multiplier effect, have the tremendous impact on the Kansas economy of a loss of thirty-six million dollars: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature hereby respectfully urges the President of the United States to reinstate the Rural Environmental Assistance Program by releasing the funds appropriated therefor by the United States Congress.

Be it further resolved: That the Secretary of State be directed to send enrolled copies

of this resolution to the President of the United States, the United States Secretary of Agriculture, the Governor of the State of Kansas, the Administrator of the Environmental Protection Agency and to each member of the Congressional Delegation from the State of Kansas.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. CURTIS. Mr. President, I yield 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I wish to call the attention of the Senate to the importance of this particular measure that relates to the total constitutional struggle being waged on the issue of impoundment. This is an example of the use of impoundment of funds to eliminate a total program.

I shall support the bill. The matter is very serious. It goes to the very essence of constitutional authority over the power of the purse. It has one other aspect which should be called to the attention of the Senate, and if that is true here, it is true in many other cases. If the President should want to do this, he should do it by asking for a rescission. I do not thing that anyone would quarrel with him if he were to come and say: "I am holding up such and such an expenditure. I think it should be rescinded. I will give you an opportunity to do it." That would be a far different course from the one he is pursuing.

Mr. President, this bears out the fact also that if we are going to proceed in this way, it should be just as possible for us to proceed in this way with regard to health, education, and housing, as it is for farm conservation practices.

The Senator from Arkansas (Mr. McCLELLAN), the chairman of the Appropriations Committee, said exactly that in the debate on Monday which relates somewhat to the same problem. I think it is so pertinent here that we have the right to invoke this precedent when we come to other bills of the exact same kind with exactly the same language.

I have already given notice that I will raise this issue on the supplemental, which I think the Senator from Arkansas (Mr. McCLELLAN) has considered, and the Senator from North Carolina (Mr. ERVIN), the author of this whole approach has indicated that he would be agreeable to this.

Mr. President, I ask unanimous consent that the colloquy which took place between the Senator from Arkansas (Mr. McCLELLAN) and me last Monday be printed at this point in the RECORD.

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

Mr. JAVITS. Yes. The amendment I may propose to the bill, if the chairman will kindly give me his reaction is:

"Notwithstanding any other provision of law, the full amounts appropriated under this Act for projects and activities shall be made available and obligated or contracted for by the appropriate departments, agencies, corporations, offices and other organizational units of the Government for the period which appropriated."

Mr. McCLELLAN. I wish to ask the Senator if this would apply only to the funds involved in the continuing resolution?

Mr. JAVITS. Yes.

Mr. McCLELLAN. Well, let me think for a moment about what is involved here—which is the President's impounding of funds. We are trying to say now—if we make this appropriation we want it all spent for this agency, or for that department. Why not make this amendment general, and apply to all appropriations? Why single out just the Department of Health, Education, and Welfare? There are other departments here that have the same problem. Other appropriations have been made that have been impounded. It occurs to me if Congress wants to take such action it should take it across the board and not just in one department.

Mr. JAVITS. This is the only thing before us now. I simply have to deal with whatever is before us.

Mr. McCLELLAN. The Senator is saying that Congress is going to pass a law saying that whatever money we have appropriated we expect to be spent, and so direct the President or the administration to do it. I think it should apply to all appropriations and not just one department. I do not know why it could not be voted on in that way and not just one department.

Mr. JAVITS. The reason I feel it is justified in this case is that we already have in one area of this very department, to wit, education, exactly that particular provision, in the General Education Provision Act. Second, I am trying to draw an amendment which is germane to this bill and leave to the Senate consideration of other departments, as the Senate may wish to consider them. This particular provision would be germane to this particular bill. It is something I have thought through.

Mr. McCLELLAN. It is not a limitation on expenditures; this is a directive to provide authority to spend, not a limitation.

Mr. JAVITS. When the Senator says it is not a limitation, the reason I have chosen this course is that it is an alternative to the course of reducing the time within which this continuing resolution shall stay in effect. If the Senator will advise me he prefers the latter course I will embrace it. I have no desire to delay the Senate.

Mr. McCLELLAN. I am sure we will have problems with the continuing resolution, as it is, getting it through before the deadline of February 28. We can complicate it and add amendments here and make it more difficult but we are still going to have to pass it in the Senate and get a conference report, both Houses' agreement to the conference report, and get it to the President by midnight of February 28.

I am trying to get a definite position one way or the other on the overall problem. But I see this proposal as singling out one agency of Government and directing the President to spend appropriations made by Congress. I see this as an overall problem, and not just a problem affecting one department. That is the only question I raise. I think this is something that involves all departments of Government. It is something that should be resolved as to all departments and not just one department.

Mr. JAVITS. Mr. President, I wish to point out what he said. He said:

It occurs to me if Congress wants to take such action, it should take it across the board and not just in one department.

So, I remind my friends from agricultural States who are deeply interested in this problem that we have exactly the same problems in the urbanized States. I intend to support the bill. I believe that other Senators from urbanized States will support it. And I hope that they will remember our action on this bill.

Mr. TALMADGE. Mr. President, I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I commend the chairman of the committee, the Senator from Georgia (Mr. TALMADGE), and the Senator from North Dakota (Mr. YOUNG), the ranking minority member of the committee. I believe that the debate lays down clearly the intent of Congress.

Mr. President, I rise in support of H.R. 2107 as amended by our Senate Committee on Agriculture and Forestry.

Mr. President, there is a need to make completely clear the intention of the Congress regarding the required operation of the rural environmental assistance program and the water bank program for 1973 and succeeding years, this body is now considering H.R. 2107, with a committee amendment, on this subject. One of the intentions of this legislation is to reaffirm the original and continuing intent of the Congress that the funds annually authorized or appropriated by the Congress under authority of the act of February 29, 1936 (16 U.S.C. 590g–590o, 590p(a), and 590p) and the Water Bank Act (16 U.S.C. 1301–1311) for a rural environmental assistance program and a water bank program are to be made available for obligation for the purposes prescribed in these respective acts during the fiscal year and in the full amounts in which such funds are annually authorized or made available by Congress.

This bill is intended to reaffirm the intention of the Congress and require that the Secretary of Agriculture shall carry out the rural environmental assistance program—REAP—and the water bank program—WBP—at the levels specified by the Congress. The intention and history of both of these acts are clear.

For many years, the annual appropriation acts for the agricultural conservation program and its successor the rural environmental assistance program which have provided the advance authorization for the next year's program, have specified a program level amounting to a stated amount. The language was specific. It did not use the words not exceeding a specified amount. Furthermore, until recently the program announced has been the amount specified in the annual appropriation act, even though the advance authorization exceeded the Federal budget request, as it did frequently.

The rural environmental assistance program is the conservation and pollution-abatement cost-sharing program which the Congress has made available for non-Federal lands throughout the country. It has clearly been intended that eligible agricultural producers throughout the country shall have reasonable access at reasonable intervals to the authorized program cost-sharing assistance. By having the program offered at the level specified by the Congress for 1973 and in the future, eligible persons throughout the country will have the opportunity to seek and, if they perform the authorized practices, to receive such assistance within the limits and to the degree the Congress specifies.

There is no question about the need for operating a significant program for these purposes. The Department of Agriculture's national inventory of oil and

water conservation needs makes it abundantly clear that the annual needs are far greater than can be fully dealt with even though all of the annual authorization be used.

Also, two recent deliberate actions by the Congress are especially pertinent to the subject:

First. When the 1973 appropriation bill was before the 92d Congress the level of the advance authorization was raised from the usual $195,500,000 to $225,500,000 in order to carry on the program at its usual level and to add in up to $30,000,000 more to share the cost of the "new pollution-abatement practices." The committee reports on the appropriation bill specifically called for announcing the program at the $225,500,000 level specified.

Second. The 92d Congress passed the Rural Development Act of 1972, of which I was one of the chief cosponsors. This act included two important sections—sections 605 and 606—to amend the Soil Conservation and Domestic Allotment Act, as amended, to expand the applicability of the program to include long-term REAP cost-sharing agreements and additional agricultural-related pollution control and abatement practices as eligible for REAP cost sharing.

The original Water Bank Act clearly stated that the Secretary of Agriculture "is authorized and directed to formulate and carry out a continuous program * * * which program shall begin on July 1, 1971." This language did not mean that the Secretary has the option or authority to operate or not to operate the program. He is directed to operate continuously. The public interest and urgent purposes of the act require that the program it directs to be operated shall be operated. And it should be rapidly accelerated to the modest level indicated in section 11 of the act.

It has been said that the individual States may decide whether they wish to finance such programs as REAP and WBP and, if so, to use their revenue-sharing and other funds for these purposes. While these programs are very strongly oriented to local needs, they are fundamentally national in their purposes, for the benefit of the general public as well as the lands on which they are used. The additional and timely conservation and pollution-abatement work they stimulate as a most important contribution to national environment enhancement, is a gain for all of the Nation's people.

In the case of the water bank program, the preservation of eligible wetlands for the benefit of migratory waterfowl is particularly a national concern. The migratory waterfowl produced in the nesting and breeding areas to which the program applies are a national, not a local, asset due to their migratory nature.

A State should not be expected and probably would not agree, to use substantial amounts of revenue-sharing and other funds to produce REAP-type and WBP-type benefits largely for the enjoyment and benefit of people in other States. These are truly national programs to solve national problems and must be treated as such.

Mr. President, I urge the message of the bill before us without further amendment. As I indicated on floor earlier in connection with the debate on the REA bill, S. 394, if the administration wants to recommend any changes in this or any other program enacted by Congress, they should submit those recommendations to us for our consideration through our hearing process. Terminating or changes duly enacted laws by press release issuances by the Executive cannot and must not be tolerated.

Mr. TALMADGE. Mr. President, the REAP program was started in 1936. It was the first program this Nation ever had regarding the environment. Every Senator present here knows what it has done for his own State. It has cleared many of our streams. It has taken many of our gullies and eroded lands in Georgia and produced beautiful grasslands. It has stabilized our streams. It has cleaned up our streams. It has prepared a million acres of forestry land so that we now have trees growing where we formerly had eroded land.

It has the overwhelming support of the people of the country—North, South, East, and West, urban and rural.

Here is the sequence of events concerning this situation. The Secretary of Agriculture and the Bureau of the Budget requested Congress to appropriate $140 million for the REAP program. Congress in its wisdom appropriated the sum of $225.5 million.

The President of the United States signed it into law on August 22 of last year. On September 29, the Department of Agriculture announced that the REAP program would receive initial funding of $140 million. On December 5 of last year the Department of Agriculture filed an environmental impact statement praising the REAP program to the skies and saying how very effective it was and what a fine job it was doing for the environment of the people of this country.

In Brooks County, Ga., on December 26, 1972, the ASCS Committee was urging the people to come and sign up for the REAP program. The same day in Washington, D.C., the Department put out a press release killing the program in its entirety—not an impoundment, not a diminution, and not a delay. The Department issued a press release and said that the program would be zero.

The question which the Senate has to decide is whether it wants to remain as a legislative body or would prefer to become a debating society. If the Senate would prefer to be a debating society, we might as well consider resigning from the U.S. Senate and go back to college and affiliate ourselves with debating societies.

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

Mr. TALMADGE. Mr. President, I yield to the distinguished senior Senator from Louisiana.

Mr. LONG. Mr. President, we could apply for membership in the United Nations.

Mr. TALMADGE. That is a good suggestion also.

The Constitution is very clear that Congress should make the law. It is equally clear that the President of the United States has the veto power. And if he vetoes a measure, it takes two-thirds of the membership of the House and of the Senate to override his veto.

This is not involved here. The President signed the Appropriations Act for these programs into law with his own signature. He now says, after signing it into law, that he will not execute it. That is a matter that confronts the Senate of the United States.

The Constitution also says that the President of the United States shall faithfully execute the law. It does not say that the President shall faithfully execute some laws and refuse to execute some other laws. It says that the President shall faithfully execute the law.

I believe that the Senate, by asserting itself, will let the executive branch of the Government know in no uncertain terms that we do not propose to abdicate the legislative responsibility which the Constitution of the United States has imposed upon it.

Mr. President, I yield the floor. I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TALMADGE. Mr. President, I withhold that statement, and I yield to the Senator from Alabama who, I believe, has an amendment.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant clerk read as follows:

At the end of the bill insert the following:

SEC. 3. (a) Section 516 of the Housing Act of 1949 (42 U.S.C. 1486) is amended by adding at the end thereof a new subsection as follows:

"(h) Notwithstanding any other provision of law, the assistance provided annually under this section shall equal in the aggregate the sums made available for such assistance in annual appropriation Acts."

(b) Section 517(c) of such Act (42 U.S.C. 1487(c)) is amended—

(1) by striking "may" and inserting "shall"; and

(2) by adding at the end thereof the following: "The amount of such loans made annually shall equal in the aggregate the sums made available for such loans in annual appropriation Acts. Not less than 50 per centum of the loans made from such fund in any fiscal year shall bear interest at the reduced rates authorized by section 521."

Mr. CURTIS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. I make the point of order against the amendment that it is not germane.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the amendment must be germane. The Chair rules that this amendment is not germane; therefore, it is out of order.

Mr. TALMADGE. Mr. President, I am ready to yield back the remainder of my time, if the Senator from Nebraska is.

Mr. CURTIS. I yield back the remainder of my time.

Mr. TALMADGE. I yield back the remainder of my time.

The PRESIDING OFFICER. All re-

maining time having been yielded back, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 2107) was read the third time.

Mr. HUGHES. Mr. President, for cloistered bureaucrats in Washington to chop out the heart of proven programs serving rural America without benefit of administrative or congressional hearings or even advance notice is not only illegal, it is a violation of conscience and sound judgment. We object, Mr. President, not only to the elimination or maiming of important programs; we deplore the arbitrary and indefensible way in which it has been done.

The rural environmental assistance program—REAP, formerly ACP—has for years shared with farmers the cost of conservation practices to protect the soil and water resources which farmers and ranchers, in effect, hold in trust for all of our people. Farmers were enabled to minimize erosion, conserve water, conserve woodland and wildlife areas, and lessen rural pollution. Every Government dollar that went into the program required an investment by the farmer. Congress has provided an advance authorization for fiscal 1973 of $225.5 million of which only $14.5 million was utilized prior to the cutoff.

With the death of REAP, farmers have not only lost the reasonable incentive offered by the Government to carry out environmental projects on their farms for the benefit of all, but, in addition, have lost national leadership and planning in a major area of environmental protection. It is elementary that agricultural runoff is a prime factor in water pollution in rural areas.

The mayor of Iowa's second largest city was in my office last week. Among other things, he spoke of the adverse effect the elimination of REAP would have on the water treatment program of his city.

The shallow assumption by the administration that farmers will continue these environmental protection projects, assuming all of the expense and risk themselves, hardly squares with reality. With REAP, as with other recently terminated programs, it is important to note that the administration did not call for modifications or changes, but simply applied to the meat ax to the entire program.

We have all received stacks of letters and other communications from farmers protesting the elimination of REAP. A farmer recently wrote to Senator GAYLORD NELSON of Wisconsin telling him in plain language what the impact of this termination means to those who have participated in the program.

The farmer writes:

Whoever is to blame has succeeded in eliminating one of the few programs we have that benefits everyone, present and future. For many farmers it has made the difference of making a go of it. From my own experience, I am sure I would not be farming today if it weren't for ACP. Not through cost sharing alone, but it has taught me to take care of the soil and woodland through liming and other practices. I would certainly like to see our young people starting out today have the same opportunity.

The explanation for termination was mainly that farmers now have sufficient income to carry out these practices on their own. This could not be farther from the truth. I am sure that 75 percent of the soil and water saving practices being carried out today will not be carried out unless there is an incentive payment.

This Wisconsin farmer touches on a point I would like to enlarge on when he indicates that farm income is better this year. Everyone should be pleased when farm income improves, as it did in 1972 due to two unrelated happenings—wheat and feed grain program payments increased to $4 billion and bad weather in the Soviet Union and China resulted in an unexpected demand and, therefore, higher prices for our wheat and feed grains.

The record farm income which makes headlines along with food price increases in largely a statistical myth achieved by multiplying total production by peak prices. Individual farmers may be better off, but most farmers are hardly rolling in wealth. A North Dakota farmer wrote to Senator QUENTIN BURDICK:

As everyone knows, the grain prices reached a new high this fall and winter or higher at least than they have been for twenty years. But everyone does not know that most of the farmers were not able to cash in on the better prices because the local grain elevators contracted only what they could ship out considering the boxcar shortage. Consequently, this price advantage was an unobtainable commodity for most.

The higher prices reduced our fall certificate payments substantially and after sacrificing that loss, Secretary Butz called in all resealed grain and with this knowledge the grain buyers refused to bid on this grain because they know they are going to get it later for a reduced price. Durum has dropped 25 cents in the last three days and I see no reason why it should strengthen, to say nothing of reaching the former high.

There are a great many wheat and feed producers in that farmer's shoes. Others, many others, had crop failure due to the wet spring. Others look out at muddy corn and soybean fields which they cannot harvest and see that record-high income slipping through their fingers before they have spent a cent of it on the farm production expenses they owe. To use this illusory high farm income figure as an excuse to kill the REAP-ACP program is to add insult to injury.

From all parts of the Midwest have come angry and bewildered protests regarding the termination of REAP.

A South Dakota constituent wrote Senator ABOUREZK:

History records that whenever the rural and food producing element of any nation is in trouble, the very survival of that nation is at stake . . . a person needs only to fly over the farm and ranch land here to see the tremendous erosion of the soil that is taking place.

An eight-county conservation group in Indiana expressed to Senator HARTKE their grave concern over the sudden discontinuation of REAP.

They declared that water, soil fertility, timber, and the preservation of wildlife "are not fair subjects for political football. They are vital to our life and the life of future generations. We do not oppose government economy; we encourage it. We pay our share of the tax load. We submit, however, that there are hundreds of other areas where curtailment of government funds will not endanger the very existence of future generations."

An Illinois farmer wrote Senator STEVENSON:

It's hard for me to understand why as effective and successful a program as REAP should be scrapped. The long overdue period of "environmental awareness" is starting to produce results, but now that a very important tool is lost maybe the emphasis will also be lost and irreversible pollution could be the result.

The chairman of the Iowa water pollution control commission wrote to the President that—

Your decision to terminate the rural environmental assistance program will seriously impair our water pollution control program in Iowa.

Let me state our case. Agriculture is the largest contributor to Iowa's water pollution problems which result from both livestock and crop production. A wide range of pollutants, chemicals, coliform bacteria, organic materials, and soil are carried into our surface waters by runoff from melting snow and rain. This is not point of source entry and can only be controlled by soil conservation practices which prevent erosion and movement of soil. Unless this soil movement is controlled, we can never meet our water quality standards at all times, nor can any other state which has intensive agriculture. The only federally-funded program that addresses itself to this problem is REAP.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by my colleague from Wisconsin.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR NELSON

Tomorrow and next Monday, the Senate Subcommittee on Employment, Manpower and Poverty will be conducting hearings in Wisconsin on the effect of the President's budget on the people of Wisconsin. As the chairman of that subcommittee, I will be chairing those hearings.

As a result, I will be unable to be in the Senate today to vote on H.R. 2107, the bill to extend the Rural Environmental Assistance Program.

Many agricultural experts believe that portions of the Rural Environmental Assistance Program are in need of review and perhaps change. The proper procedure for doing that is through Congressional hearings and floor action. Rather than that, we have been faced with an abrupt discontinuance of the support program by the Executive without any consultation with the Congress or the American farmers whose interests these programs serve.

It is because of the importance of the R.E.A.P. program to the American farmer that I would vote in favor of H.R. 2107.

Mr. BURDICK. Mr. President, I want to state my strong support for H.R. 2107, to require the Secretary of Agriculture to carry out the rural environmental assistance program, as amended by the Senate Committee on Agriculture and Forestry to make mandatory the continuation of the water bank program at the level of appropriated funds, $10 million for fiscal year 1973.

The termination of these programs by

Executive action, without the knowledge or consent of the Members of Congress, makes a mockery of eloquent statements regarding the commitment of the administration to the improvement of environmental quality. Such action also runs counter to the expressed opinion of the general public that expenditures for clean air and water are justified.

The rural environmental assistance program is the basic agricultural conservation program that has been on the statute books since the 1930's. This is a grassroots action program through which the Federal Government shared with the people on the land the responsibility and the cost of preserving and improving our great natural resources of soil and water. This was a truly cooperative program that benefited not only the producers but all citizens by improving the environment.

North Dakota is a prairie State where the land is exposed to harsh winds and violent rain and hailstorms, subject to extreme threats of soil erosion.

The small amount of money received by each cooperator is not a gift. He must match the REAP funds with his own cash and labor to bring to the land such improvements as tree belts and cover crops to protect land from wind erosion and distribute snow for moisture conservation; grassed waterways; grass seedings; stripcropping, brush control; and animal waste disposal pits. This is only a partial list of conservation practices that have been used.

The Agricultural Stabilization and Conservation Service has administered this cost-share program with the Soil Conservation Service providing the necessary assistance of trained soil technicians.

In program year 1971, cost-share assistance from REAP provided 30 to 90 percent of the cost of establishing such needed conservation practices on 21,551 North Dakota farms, 52 percent of the farms in the State.

All of rural America benefits directly from the programs with economic spinoff going to equipment dealers for earth moving equipment; seed dealers for grass seed, small grains, and fertilizer for establishing protective cover; to tree nurseries for seedlings; and to petroleum dealers. If the termination of these programs is allowed to stand, over 1,000 jobs throughout North Dakota will be directly affected. This includes conservation contractors as well as suppliers of conservation materials and ASCS and SCS personnel. Needless to say, the curtailment of jobs will reduce income and spending for goods and services throughout North Dakota and the Nation.

The new water bank program, passed by Congress in 1970, and implemented in 1972 as a pilot program after much footdragging, was eliminated by a stroke of the Executive pen. This program was the result of years of intense effort by North Dakota conservation and wildlife organizations and citizens concerned with preservation of migratory waterfowl habitat. In 1972, 334 10-year contracts were signed by farmers in 15 North Dakota counties at a cost of $271,000. These contracts made possible the protection of 20,454 acres of wetlands for waterfowl habitat and nesting areas. This is only a small start on this program. Abolishing the water bank program will save very little money.

The termination of REAP and the water bank program has brought to my desk a torrent of protests, not only from farmers, officials of soil conservation district and all farm organizations in the State, but also from individual businessmen and local chambers of commerce.

Mr. President, I ask unanimous consent that a resolution passed by the Dickinson, N. Dak., Chamber of Commerce be printed in the RECORD at this point in my remarks. This resolution briefly but vividly states the value of REAP, the water bank, and other terminated farm programs to all of the people of North Dakota.

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

RESOLUTION

Whereas, Western North Dakota's economy, both in urban and rural areas is solely depended upon the stability of agriculture; and

Whereas, the recent cuts, by the Administration, in rural programs will result in severe economic hardship to both the rural and urban sector of Western North Dakota as well as the entire State; and

Whereas, the economic benefits from the losses of the Water Bank Program will represent a loss of some 2½ million dollars to our state's economy during the next 10 years as well as the detrimental effect it will have to the environment; and

Whereas, the deleted Rural Environmental Assistance Program (REAP) will result in the loss of several million dollars to our state as well as the loss of up to 1,000 jobs in the state, both private and public; and

Whereas, the deletion of the REA and RTA loan program creates an interest rate increase of some 250%. Rural suppliers are faced with a high investment per mile and a density too low to generate the necessary revenue to absorb the increase; and

Whereas, the loss of emergency disaster funds financed through the Farmers Home Administration and cuts in interest credit financing will mean tremendous hardship in times of natural disasters as well as the curtailment of decent housing for the state's citizens; and

Whereas, the loss of the aforementioned programs and funds will have a detrimental and adverse affect on all citizens in North Dakota as well as loss of long range benefits these programs offer our state.

Now, therefore, be it resolved that the Dickinson Chamber of Commerce respectfully requests the restoration of these programs in the best interests of our state's economy and future and asks that these programs be reinstated, and commend the Agriculture Rally to be held in Bismarck, February 16, 1973 for its efforts to restore all the above programs.

And be it further resolved that copies of this resolution be sent to the President of the United States, Senators Burdick and Young, Congressman Andrews, Secretary of Agriculture Earl Butz, Governor of North Dakota Arthur Link, North Dakota House and Senate members of the Agriculture Committee, and the Industry, Business and Labor Committee.

Mr. BURDICK. Mr. President, the benefits of these programs are not by any means confined to North Dakota. They are nationwide.

I hope that our action in the Senate today reaffirms our responsibility to see that worthy programs, passed by Congress and funded by Congress, are administered by the executive agencies in accordance with congressional intent.

Mr. BUCKLEY. Mr. President, yesterday I stated that I felt the time had come for the Senate to come to grips with its fiscal responsibilities. I thereupon found myself in lonely company as I voted against a measure, which, despite its merits, would nevertheless have mandated a level of expenditure significantly above the budgetary request. Today, we are asked once again to approve a measure which would exceed the budgetary request by almost 50 percent, which would add $85 billion to the already excessive deficit which has been projected for the current fiscal year.

Mr. President, there are a number of the programs which would be funded by the Soil Conservation and Domestic Allotment Act of which I highly approve, and which would do much to help our farmers to meet some of the new environmental practices now being required of them. I believe, however, that the overriding consideration must be to exercise the degree of fiscal responsibility which is required to avert either a ruinous round of inflation or a significant increase in taxation. I do not believe that our farmers or our society as a whole would welcome either of these alternatives.

The Bellmon amendment would have achieved this goal, and, therefore, I voted for it. Unfortunately, that amendment failed, and I will therefore vote against adoption of H.R. 2107, and in the process, will, no doubt, once again find myself in lonely company.

I feel some of us must do what we can to dramatize the urgent need for the Senate either to live by the budgetary recommendations made by the President or to live with an overall spending ceiling determined by the Congress to be appropriate.

Last October, each House of the Congress acknowledged that it would be fiscally irresponsible for the Federal Government to spend more than $250 billion in the current fiscal year. Last year each House of the Congress voted appropriations which aggragated more than $265 billion. Neither body would discipline itself to the point of indicating where the excessive appropriations should be cut back; nor would the two bodies agree as to how that discretion might be delegated to the Executive.

The Executive has moved into the vacuum, relying on a practice of impoundment which is almost as old as the Republic. I do not like that practice, but I would rather that the Executive act as it has than risk the social, political, and economic consequences which would follow on the failure of the Congress to keep expenditures within reasonable bounds.

Mr. HATFIELD. Mr. President, it is the Senate's task, once again, to place itself squarely behind a program it helped to create and fund. It is frustrating to have to continue to vote to reestablish programs that have been curtailed by the Executive without consulting Congress. How many times are we going to have to do this before we make the point that we stand by what we legislate.

The sshpension of the REAP program is particularly irksome since it is rela-

tively inexpensive to the Government, cost shared by the farmer, and has provided incentives for environmentally sound conservation practices over a period of 37 years. We are told the program has outlived its usefullness and is the toy of a powerful lobby. Yet 4,183 farms participated in this program in Oregon alone last year. It is obvious that Oregonians have benefited. Over a 5-year period, from 1967 to 1971, 16,036 Oregon farms benefited from the cost-share program of REAP. This has made a tremendous difference to the State. The average outlay by the Federal Government to these farms was $410 which allowed farmers to engage in drainage projects, wildlife preservation, planting trees or shrubs for forestry purposes, and to prevent erosion—the list is as varied and imaginative as the program itself.

I think we should hold down Federal spending. And I am willing to support the President for such efforts. But these cuts should begin in nonproductive areas of military spending, not in domestic programs that serve the social needs of the Nation.

Whatever cuts are made, however, cannot be made solely by the President. The genius of the American experiment was that the power of the Executive was to be checked by the people, through the Congress, and I believe this balance must be restored.

James Madison said:

> The truth is that all men having power ought to be mistrusted.

And Thomas Jefferson made a similar observation:

> Let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

A wise distrust of centralized, uncontrolled power dominated the thinking of those who framed our Constitution. Further, they knew that in Government, power was money and money was power. If despotic power, such as that under George III, was to be prevented, then the branch of Government directly elected by the people—the Congress—had to be given the power for raising the revenues and authorizing the funds for the programs of Government.

The executive branch was to implement—or execute—these congressional mandates.

But, the reality today is nearly the complete reverse of those ideals.

Voting to require the Secretary of Agriculture to carry out REAP is one necessary step to restore the historic balance of power. It is an excellent program in and of itself; it is also an important means to an important constitutional end.

Mr. BROCK. Mr. President, at a time when over a million farm acres nationally are given over annually to housing, airports, commercialization, and abandonment, governmental support is sensible to help the small farmer conserve what farmland is left.

With the ever-increasing population growth and the subsequent urban sprawl, conservation of our natural resources is more important now than when the program was initiated in 1936; not only for food, but also because of the diminishing square footage.

Granting its obvious inadequacies and problems, even so the rural environmental assistance program has made an enormous contribution to our rural communities. It has encouraged and enabled farmers to incorporate sound conservation and environmental practices in their farming methods. The need continues.

There are many small farmers who love the land and are willing to work to see the land work. But they have to struggle to make a profit. They need help with pollution control and the incentive to invest in long-range conservation practices. They reap no immediate benefits from planting trees and setting aside wildlife habitats. But these programs are beneficial to all of us and will be of benefit to generations to come.

I do agree that Congress should reevaluate REAP and, perhaps, revise it and redirect it away from programs which serve merely to increase crop production and toward more long-range conservation practices. However, I cannot see the justification for eliminating the good with the bad while a reassessment is made.

Mr. ROBERT C. BYRD. Mr. President, I wish to voice my support for H.R. 2107, which would, if enacted, require that all funds appropriated for the rural environmental assistance program and for the water bank program be obligated by the executive department.

Earlier this year, on January 18, I spoke on the Senate floor to voice my strong objections to the administration's announced plan of eliminating these two very important conservation and environmental programs. Prior to making that statement, I had contacted the White House and the Department of Agriculture to urge reinstatement of these two programs at the funding level provided by Congress. The replies which I received from both were certainly not responsive, nor did they discuss the merits of the program; instead, they reiterated the administration's desire to hold fiscal outlays this year to $250 million, and stated that it was essentially a matter of priorities. In this instance, I do not agree with the order of priorities which proposes to eliminate REAP and other important environmental programs. It is ironic that proposals to eliminate REAP, which are advanced annually by the executive department, never originate within the operating agencies of the Department of Agriculture which administers this program, and thus, has the best opportunity to view the results. It always originates within the Office of Management and Budget. As a member of the Appropriations Subcommittee on Agriculture, Environmental and Consumer Protection, I have heard testimony, from departmental officials ascertaining this fact, for the past several years.

Since the REAP program was first authorized in 1936, it has made many important contributions toward the improvement of our natural environment by helping to protect millions of acres of land from erosion damage. It has helped small farmers and ranchers finance improvements on their land, such as farm ponds, and has promoted improved care for their farm forest lands. It should be reiterated that, while this program has made these tremendous conservation and environmental gains, they have been made in a manner consistent with both community and national needs.

REAP is of particular importance to West Virginia, because most of the small farms in my State cannot participate in the other federally sponsored agricultural programs to their advantage. REAP is one program which they can and do use to their advantage, and to the advantage of sound conservation and environmental practices. In 1971, 10,970 West Virginia farmers participated in REAP and received total payments of $1,113,000. In 1972, 13,000 farmers participated in REAP and received payments of $1,456,000. Had the program continued at the announced reduced level of $140 million, approximately 10,000 West Virginia farmers would have been able to participate in this program and they would have received $1,043,000.

Mr. President, I urge enactment of H.R. 2107. If this bill is vetoed, and that is a very real possibility, I hope the Congress can muster sufficient strength to override the veto. In the meantime, I shall continue my efforts as a member of the Agriculture Appropriations Subcommittee to urge continuation of the program at the $225 million level, which was the amount included in the agriculture appropriations bill for fiscal year 1973.

Mr. President, I ask unanimous consent to proceed for 1 additional minute.

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

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today. The Senate will not be in session tomorrow. If it is possible to reach an agreement on certain bills that are being reported out of the Committee on Veterans' Affairs today, to allow a vote on those bills on Tuesday, the Senate would have a pro forma session tomorrow and then we would go over until Tuesday. If such an agreement cannot be reached, the Senate would have to be in session on Monday, I presume, so that debate could proceed on those bills.

In any event, there will be no session tomorrow. If there is a pro forma session, it will be just that, with no votes.

I thank the Chair.

The PRESIDING OFFICER (Mr. DOMENICI). The bill having been read the third time, the question is: Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BUCKLEY (after having voted in the negative). If the Senator from Montana (Mr. MANSFIELD) were here, he would vote "yea." I have already voted "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wisconsin (Mr. NELSON), and the Sena-

tor from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Mississippi (Mr. STENNIS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), and the Senator from Ohio (Mr. SAXBE) are necessarlily absent.

The Senator from Pennsylvania (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are absent on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from New Hampshire (Mr. COTTON) are detained on official business.

On this vote, the Senator from New Hampshire (Mr. COTTON) is paired with the Senator from Utah (Mr. BENNETT). If present and voting, the Senator from New Hampshire would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 71, nays 10, as follows:

[No. 29 Leg.]

YEAS—71

Aiken	Eagleton	Metcalf
Allen	Eastland	Mondale
Baker	Ervin	Montoya
Bartlett	Fong	Moss
Bayh	Gurney	Muskie
Beall	Hartke	Nunn
Bellmon	Haskell	Pearson
Bentsen	Hatfield	Pell
Bible	Hathaway	Percy
Biden	Hollings	Proxmire
Brock	Hruska	Randolph
Brooke	Huddleston	Ribicoff
Burdick	Hughes	Schweiker
Byrd, Robert C.	Humphrey	Sparkman
Cannon	Inouye	Stafford
Case	Jackson	Stevens
Chiles	Javits	Stevenson
Church	Johnston	Symington
Clark	Kennedy	Talmadge
Cook	Long	Thurmond
Cranston	Magnuson	Tunney
Curtis	Mathias	Williams
Dole	McGee	Young
Dominick	McIntyre	

NAYS—10

Byrd, Harry F., Jr.	Griffin	Roth
	Helms	Scott, Va.
Domenici	McClure	Taft
Fannin	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Buckley, against.

NOT VOTING—18

Abourezk	Hansen	Pastore
Bennett	Hart	Saxbe
Cotton	Mansfield	Scott, Pa.
Fulbright	McClellan	Stennis
Goldwater	McGovern	Tower
Gravel	Nelson	Weicker

So the bill (H.R. 2107) was passed.

Mr. TALMADGE. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AID TO NORTH VIETNAM

Mr. THURMOND. Mr. President, I rise to address myself to a topic of considerable controversy to the Nation today—the question of providing economic aid to North Vietnam.

First, Mr. President, permit me to point out that debate over our postwar strategy emerged only after President Nixon successfully concluded our involvement in Vietnam. He accomplished the cease-fire despite constant and unfair criticism from some segments of our society. Because he insisted on an honorable end to our involvement in the war, he has earned a prominent place in history.

We are now engaged in debate on the propriety of helping rebuild North Vietnam. Arguments for aid are being made on both a moral and pragmatic basis. Should we feel morally obligated to rebuild North Vietnam? Or should we do it in order to cement the agreement in hopes that it may lead to a more durable peace? Of course, a third argument is that we should not, for any reason, provide aid to a country which killed over 45,000 Americans.

I completely reject the idea that the United States is morally bound to assist in rebuilding North Vietnam. True, our bombs did severe damage to parts of that country. Damage to the warmaking capabilities was widespread. By all reliable accounts we have received, damage to nonmilitary areas was minimal.

Mr. President, our bombing, especially the intensified bombing in December of 1972, was essential to obtaining the January 27 cease-fire agreement. By his firm and decisive action, President Nixon showed the enemy that he would take whatever steps necessary to force them to negotiate earnestly.

Those who maintain that we are morally committed to participate in rebuilding North Vietnam do so on the premise that it was immoral for the United States to get involved in the war at all. This I also reject. What is immoral about stopping Communist aggression? What is immoral about insisting that each country be given the chance to choose the kind of government that is best for it?

It is the Communists who, by their violent aggression, acted immorally in this war. If anything, they are the ones morally bound to heal the wounds of war.

There may be more merit to the view that aid to the North may make the Communists' commitment to the cease-fire more viable. Secretary of State Rogers said as much recently when he noted that aid could lead to an "eventual settlement by peaceful means in Vietnam."

Mr. President, this Congress will ultimately have to be the final arbiter of this question. I believe that we would be wise to keep an open mind on the matter until some very fundamental questions are answered.

Of top priority are our prisoners of war and those listed as missing in action. I have serious doubts about the accuracy and reliability of the North Vietnamese accounts, as they have been furnished so far. The South Carolina League of Families of American POW's and MIA's and "I Care, Inc.," of Charleston, have also shared with me their doubt about the accounting. We should not consider appropriating any money whatsoever, and much less appropriating funds for the North, until all captured Americans are back on American soil and until a satisfactory accounting has been given for all MIA's.

Second, Mr. President, no funds should be approved until all hostilities throughout Indochina are ended. The Vietnam cease-fire has been soiled by outbreaks of sporadic violence.

The Communists have continued to stall any efforts by the Joint Military Commission to establish adequate inspection headquarters in South Vietnam. As they refuse to cooperate, the Communists have stepped up heavy troop operations in the South. One night recently, Communist gunners fired more than 1,400 mixed mortar and artillery rounds into South Vietnamese air troops at Quang Tri.

At least, Mr. President, the Communists remain consistent. They have a history of breaking written agreements. Their continued offensive in South Vietnam is ample evidence that they have not given up their goal of Indochina domination. The United States would be making a grave mistake to even consider providing aid as long as any fighting continues.

The consideration of aid must be contingent upon our assurance that American dollars are being used for peaceful purposes. It would be a sham if our postwar aid were used to rebuild our enemy's warmaking machinery. An international body to coordinate the reconstruction program, such as the U.N., should have regular onsite inspection teams for this purpose.

If the United States of America elects to provide assistance to the North, the major Communist powers should provide aid for war-ravaged South Vietnam. International reconciliation is a two-way street.

As we weigh these issues, Mr. President, we must not have our decision distorted by irrelevant facts. Some are saying that aid to North Vietnam would be consistent with past policy of aiding Germany and Japan after World War II. I take issue with this.

The situation in 1945 was completely different from 1973. Japan and Germany had surrendered. Not only was their warmaking capability destroyed, but their spirit of international domination was effectively quashed.

During the postwar years, it was evident that our alliance with Russia was over and that the Soviet Union would be our primary protagonist in what came to be known as the cold war.

It was in the national interest that we participate in a rebuilding program of Japan and Germany to prevent the So-

viets from establishing new spheres of influence.

The Marshall plan gave a semblance of order to a chaotic postwar world. However, it is my opinion that even the Marshall plan assistance should not have been given free but loaned and repayment required.

The situation in North Vietnam is completely different. As I have pointed out, the North Vietnamese have not laid down their weapons. Their intent to take over all of Indochina has not been disavowed. North Vietnam is firmly in the hands of the Communists. Given the present situation, it is beyond the realm of feasibility to expect that our economic aid, whatever the amount, will neutralize to a great extent the Communist influence.

So, Mr. President, there are many questions to be answered before we can in good conscience provide aid to North Vietnam. We must be convinced that our economic assistance to North Vietnam would contribute so much to peace that this benefit overrides the objections we have to it. Let us all hope and pray that our decision on this matter will be wise.

ORDER FOR RECOGNITION OF SENATOR BELLMON ON TUESDAY, MARCH 6, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the recognition of the distinguished Senator from Colorado (Mr. HASKELL) the distinguished Senator from Oklahoma (Mr. BELLMON) be recognized for not to exceed 15 minutes.

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

RULES OF THE COMMITTEE ON PUBLIC WORKS

Mr. ROBERT C. BYRD. Mr. President, at the request of my distinguished senior colleague (Mr. RANDOLPH), I ask unanimous consent to submit the rules of the Committee on Public Works, pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, and I ask unanimous consent that the text of the rules be printed in the RECORD.

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

UNITED STATES SENATE COMMITTEE ON PUBLIC WORKS—I. RULES OF PROCEDURE

RULE 1. REGULAR MEETING DAYS

The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 A.M., except that if there be no business before the Committee, the regular meeting shall be omitted.

RULE 2. COMMITTEE MEETINGS

Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman. Subcommittee meetings shall be called by the chairman of the respective subcommittee. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking Minority Member. Such 24-hour notice may be waived in an emergency by the Chairman, with the concurrence of the ranking Minority Member.

RULE 3. OPEN COMMITTEE MEETINGS AND EXECUTIVE SESSIONS

Meetings of the Committee, including hearings shall be open to the public except during Executive Sessions for marking up bills or for voting, or when the Committee, by majority vote, orders an Executive Session, or as required by section 133A (b) of the Legislative Reorganization Act of 1946, as amended.

RULE 4. PRESIDING OFFICER

(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking Majority Member who is present at the meeting shall preside;

(b) Subcommittee Chairmen shall preside at all meetings and hearings of their respective Subcommittees, except that in the absence of the Subcommittee Chairman, the ranking Majority Member of the Subcommittee who is present at the meeting shall preside;

(c) Notwithstanding the rule prescribed by subsection (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

RULE 5. QUORUMS

(a) Except as provided in subsections (b) and (d), five Members, two of whom shall be Members of the Minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the Subcommittees shall be a simple majority of the Membership of the Subcommittees with at least one Minority Member present.

(d) Notwithstanding the rule prescribed in (a), one Member shall constitute a quorum for the purposes of conducting a hearing.

RULE 6. PROXY VOTING; POLLING

(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any Subcommittees. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultation with the ranking Minority Member, Members who are unable to be present and whose vote has not been cast by proxy, may later have their position recorded on any vote.

RULE 7. PUBLIC ANNOUNCEMENT OF VOTE

Whenever the Committee by rollcall vote reports any measure or matter, or acts upon any measure or amendments thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

RULE 8. ANNOUNCEMENT OF HEARING

The Committee, or any Subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time and subject matter of any hearing to be conducted on any measure or matter, at least one week in advance of such hearing, unless the Committee Chairman, or Subcommittee Chairman, with the concurrence of the ranking Minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours notice shall be given.

RULE 9. STATEMENTS OF WITNESSES AT HEARINGS

(a) Each witness who is scheduled to testify at any hearing of the Committee, or any Subcommittee thereof, shall file a written statement of his proposed testimony not later than noon of the last business day preceding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee, 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness not read his written testimony and to confine his oral presentation to a summary of his statement.

RULE 10. REGULARLY ESTABLISHED SUBCOMMITTEES

The Committee shall have six regularly established Subcommittees as follows:

—Subcommittee on Water Resources
—Subcommittee on Air and Water Pollution
—Subcommittee on Economic Development
—Subcommittee on Transportation
—Subcommittee on Buildings and Grounds
—Subcommittee on Disaster Relief

RULE 11. SPECIAL SUBCOMMITTEES

With the concurrence of the ranking Minority Member, the Chairman shall, from time to time, establish such special Subcommittees as he deems necessary to expedite Committee business.

RULE 12. SUBCOMMITTEE MEMBERSHIP

Following consultation with the Majority Members and the ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rules 10 and 11.

RULE 13. ENVIRONMENTAL IMPACT STATEMENT

No project or legislation proposed by the Administration shall be approved or other action taken unless the Committee has received an environmental impact statement relative to it, in accordance with Section 102 (2) (C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with Sec. 309 of the Clean Air Act.

RULE 14. NAMING OF PUBLIC FACILITIES

No building, structure or facility authorized by the Committee, shall be named for any living person, except former Presidents of the United States, or former Members of Congress over 70 years of age.

RULE 15. COMMITTEE RESOLUTIONS

(a) The Chairman is authorized to certify and pass on Committee resolutions for review of flood control and river and harbor reports and resolutions for studies of public building projects, and forward the resolutions to the appropriate Federal agency.

(b) Proponents of Committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

RULE 16. BROADCASTING OF HEARINGS

Public hearings of the Committee, or any Subcommittee thereof, shall be televised or broadcast, or recorded for television or broadcast, only when authorized by the Chairman, acting through the Chief Clerk. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment

in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or Staff on the dais, nor with the orderly process of the hearing.

RULE 17. AMENDMENT OF RULES

The rules may be added to, modified, amended or suspended by a majority of the Committee Membership.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL CORRECTIONS IN S. 7

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in S. 7. I make this request on behalf of the distinguished Senator from California (Mr. CRANSTON).

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

RESUMPTION OF THE PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of the period for the transaction of routine morning business, for not to exceed 20 minutes, with statements therein limited to 5 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE CHILEAN ELECTIONS

Mr. JAVITS. Mr. President, I wish to call the attention of the Senate, before we adjourn for the weekend, to a very critical election that is going to take place over the weekend in Chile. Chile is a very attractive country that traditionally has had perhaps the strongest democratic positions in South America.

The United States, I believe, has behaved with the most exemplary correctness toward Chile and acted in a most extraordinarily fine way toward the people of Chile. Chile has a government which was proclaimed by President Allende as being a coalition of essentially Socialist and similar left forces in the country, and notwithstanding the fears that we would in some way interfere, we did no such thing and we have respected what the Chilean people, even though it was a minority choice, felt should be their government.

Mr. President, a critical election for membership in the senate and the chamber of deputies is coming up in that country on Sunday. The entire world will watch with the greatest interest what occurs. Like other interested observers, and I have been there and respect the country enormously and value it as one of the great American states, I have been increasingly saddened by the polarization of Chilean society over the last 2 years as the Allende government sought to implement far-reaching radical reforms.

I express the hope that our country will continue its admirable policy of hands off and let the Chilean people express their will, and respect whatever that will may be, no matter how I in my heart and others may feel about what is best in terms of the future of the Americas and Chile's own future. But that does not mean we cannot and should not watch with the greatest attention what occurs, be sympathetic and understanding and as helpful as we can for the future of the people and the future of democratic institutions in South America and in one of the countries which has been the strongest adherent to such traditions.

Especially is that true, and we are so anxious to see Chilean freedom in terms of democratic institutions preserved, as the number of countries in South America which have democratic governments has been shrinking, and some of the largest and powerful South American states have been turning to military government, most regrettably; but nonetheless that is a fact of life. So we have a right to pay careful attention to what is happening in Chile, with deep and sympathetic interest in the democratic institutions, forces, and attitudes on the part of the people which will enable them to survive.

In accordance with those ideas, I call to the attention of my colleagues a news story describing the situation, which was printed in the New York Times of this morning, March 1. One of the subheadings in the article speaks of "Two Polarized Camps" as being the situation in the election in Chile. The article calls it a rare phenomenon in Chile's electoral history, which has been more like our own, a tendency to blend various forces and different ideologies in the country.

This article also speaks to the fact that former President of Chile Eduardo Frei Montalva is becoming the leader of the opposition in Chile. Americans will remember President Frei, whom I knew personally during his incumbency, to be one of the most respected democratic leaders in the world, who instituted sweeping reforms in Chile's society in respect of land reform, housing, the Chileanization of the copper industry, and promoted free union and peasant organizations, free of government control. The Chilian constitution does not allow a President to run for a consecutive second term and President Frei stepped down after he successfully completed his 6-year term.

He has been an active participant in government in his country.

This material is worth reading by every Member, especially this weekend because we do not know what policy decision may face us in respect of this rather grave situation in Chile.

The other article to which I refer is from the London Economist which is one of the most respected publications in the world. It gives an analysis of what happened in Chile in the last few years. The subtitle of the article is "Chileans Will Be Passing Judgment Next Weekend on the Performance of President Allende's Union of the Left." Again, Americans will be saddened by the assessment of this very prestigious journal of what has happened in Chile. The report is that the present rate of inflation in Chile is 160 percent, with growing shortfalls in farm production which is leading to rationing and balance of payments difficulties, with the resultant great damaging effect on the Chilean currency. A people have the right to determine their own future, as the Chilean people obviously have done and are doing. It is our duty to respect their judgment and their right, under democratic institutions, to self-determination.

Again, I urge our Government, and I am sure the Nixon administration will, to follow the precedent which was inaugurated when President Allende ran successfully and was elected.

We also have a duty—I am a member of the Foreign Relations Committee; the Senate is the advise and consent branch of the Congress—to observe carefully what goes on, to be thoroughly informed about it, to understand, to, as it were, develop a policy, before we are faced with emergencies which require one, and then to do our utmost to carry it out in the hope it will contribute to freedom, security, and prosperity for the whole Western Hemisphere.

This is an election which will have a profound significance in that regard, and I hope that my colleagues will read these pieces and will seek any other information they may choose respecting the situation in Chile and the election, and be prepared to exercise a proper role in the success of the American states as the Chilean situation, which is so grave, develops further.

Mr. President, I ask unanimous consent to have printed in the RECORD the article entitled "Change in Policy for Chile Asked" which is published in the New York Times today, March 1, 1973, and an article from the London Economist of February 24, 1973, which I have referred to.

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

[From the New York Times, Mar. 1, 1973]

CHANGE IN POLICY FOR CHILE ASKED—FOE OF ALLENDE VOWS FIGHT ON SOCIALISM AFTER VOTE

(By Jonathan Kandell)

SANTIAGO, CHILE, February 28.—Former President Eduardo Frei Montalva said today that if the anti-Marxist opposition scored a "clear majority" in the legislative elections Sunday, it would demand a change in the Government's socialist policies.

"We are prepared to carry out our opposition after the election in the legislature, in the unions and in the neighborhood associations," Mr. Frei said in an interview in his office atop a downtown building in the capital.

Since winning election in 1970 as head of the coalition of Socialists, Communists and other Marxists, President Salvador Allende Gossens has promised to steer the country on a clearly socialist course.

His attempts to redistribute income and extend Government control over private sec-

tors of the economy without the approval of the legislature have aroused bitter opposition. The popular resentment led to abrasive 26-day transportation and business strike last October that brought the country to the verge of civil war.

TWO POLARIZED CAMPS

The election has been portrayed by both sides as a continuation of last October's battle and as a showdown between two polarized camps—a rare phenomenon in Chile's electoral history.

Mr. Frei, who served as President from 1964 to 1970, has emerged as the de facto leader of an anti-Marxist electoral coalition that includes primarily his own center-left Christian Democratic party and the right-wing National party.

He is also an overwhelming favorite to win a Senate seat from Santiago in the elections, which will fill one-half of the 50 Senate posts and all 150 seats in the Chamber of Deputies.

If the opposition maintains its majority in the Chamber of Deputies and wins two-thirds of the Senate by gaining one additional seat in the elections, it will have the power to veto all major legislative bills and even impeach President Allende.

VOTE VIEWED AS "PLEBISCITE"

Such a clear mandate for the opposition is considered possible but not likely.

However, Mr. Frei reiterated that the opposition would interpret the election results as a "morally binding plebiscite."

Other opposition leaders, particularly National party spokesmen, have raised the prospect of another general strike to force the Government to change its policies if it loses heavily at the polls.

In yesterday's interview, Mr. Frei refused to comment on such a possibility, but he made it clear that the opposition would not limit its resistance to the legislative chambers.

The former President also rejected the possibility of even a limited working relationship between his party and the Government after the elections.

Characterizing the Communist party as Stalinist and the Socialist party as "even more extreme in inspiration and action," Mr. Frei said he saw no "moderate elements" in the Government to deal with.

President Allende has rejected the opposition's argument that the elections will amount to a popular referendum. During the last few weeks he has repeatedly told the electorate that Chilean Presidents have traditionally governed with less than 50 per cent support at the polls and stressed that Mr. Frei's Christian Democratic party received only 29.8 per cent of the vote in the 1969 legislative elections.

Spokesmen for the Marxist Popular Unity coalition say they would regard any increase over the 36 per cent polled by Dr. Allende in the 1970 presidential election as a victory.

[From the London Economist, Feb. 24, 1973]

JUDGMENT OF SANTIAGO

President Pompidou is not the only head of state who will be feeling nervous on March 4th. That is also the day when the Chileans will pass judgment on more than two years of President Allende's marxist government by electing a new parliament. Far from sniffing victory, the leaders of Dr. Allende's Socialist party have been telling their followers not to worry about the results of what they claim to be merely a "routine democratic exercise"—one more move in a game whose rules they never really believed in. No one thinks that Dr. Allende's supporters can get half the votes; the opinion polls suggest that they will be lucky to get 40 percent. The really acute question now is whether they can get more than a third.

If they cannot, the new congress would be in a position to impeach the president (a move that requires a two-thirds majority) and might do so; and that would be the end of the Chilean revolution. Even if the government can preserve the necessary blocking third, a majority vote for the opposition's parties would show those who still remain to be convinced that Dr. Allende's regime is not the people's government that it claims to be.

It has never won more than minority backing for a programme that has deepened the rifts in Chilean society, brought on the worst economic crisis in the country's postwar history, and created a climate of violence and vilification in which talk of a possible civil war is more than just talk. That record, and the Chileans' likely judgment on it, are things that the French electors would do well to think about when they make their final choice, in the second round of their parliamentary elections on March 11th, on whether or not they want to have a National Assembly that contains a majority of Communists and Socialists.

EVERYBODY HAS FELT THE PUNCH

The Allende government has failed to solve the problems that the Chilean marxists used to blame on foreign investors or the whole capitalist system. They promised in 1970 to end inflation, but last year the rate of inflation rose to 160 per cent—the result both of declining production, because of the reckless and disorderly process of state takeover of private firms, and of the government's attempts to cover its whopping budgetary deficit by printing paper money. The monetary supply expanded by 171 per cent last year, according to central bank figures. The government promised to improve standards of living, and got off to a racy start early in 1971 by granting massive wage increases to lower-paid workers. Their temporary affluence led to a transient industrial boom, as factories used up their idle capacity to satisfy new consumer demand. But over the past two years the galloping inflation combined with the loss of production both in industry and in agriculture have seriously eroded everyone's living standards.

The government also claimed that, once the big farms were expropriated, more food would be produced. That is another promise that has fallen by the wayside. The country has had to double its food imports over two years, while internal consumption rose over the same period by only about 25 per cent. These figures make a nonsense of the persistent claims of the government's supporters that more food has to be imported simply because people are eating better.

The truth of the matter is that the arbitrary actions of the land reform officials (many of whom have been ready to sanction the illegal land seizures carried out by the would-be guerrillas of the Movement of the Revolutionary Left) have resulted in the decimation of cattle stocks and steep falls in production of key crops such as wheat and maize. The inevitable result—as the Christian Left, which has emerged as one of the most radical forces in Dr. Allend's coalition, was ready to admit last August—was rationing. The system of rationing that was eventually introduced in January was not just a final admission of the failure of the government's economic programme. It also gave cause for serious concern about the future of Chilean democracy, since neighbourhood committees that are in practice dominated by the Communist party are to be made responsible for deciding what are "the real needs" of each family.

Some of Dr. Allende's foreign sympathisers are ready to shrug off this depressing record as part of the necessary cost of building a socialist system. The question is whether a majority of Chileans want that system, and whether it is likely to be more rather than less open to change and new ideas than the form of parliamentary democracy that Chile has been able to maintain—despite its evident defects—for most of this century.

In every by-election, university election and trade union election held last year, the government's supporters lost ground. The protest movement that mobilised itself during the wave of anti-Allende strikes last October showed that the government is opposed by large numbers of students, peasants, white-collar workers, bus drivers and lorry drivers, merchant seamen and railwaymen as well as by employers, shopkeepers and groups of professional men.

At the same time, the longer-term strategy of the Chilean marxists has become clear. It is based on the concentration of political power in the hands of the marxist parties through the extension of state control over the private sector of the economy. The state now controls some 80 per cent of industrial production, and three-quarters of the cultivated land has been brought within the so-called "reformed sector." The financial bases of the opposition parties and the independent press have been steadily whittled away. The same process has greatly diminished the freedom of workers to strike or choose alternative employment, since many of them now depend on the favours of the political activists who have been promoted to be state managers. It is also worth noting that the communist who runs the trade union federation is also the minister of labour—a combination of roles that would make even Mr. Jack Jones's hair stand on end.

HOW COME HE'S STILL THERE?

If all this is true, many people will ask, and if on top of all this Dr. Allende's own supporters are warring among themselves, how has he survived so long? His survival, it could be argued, is due to two things. The first is the caution of the Chilean opposition, which has used every constitutional means to block the dangerous parts of his programme but, failing in this, has not resorted to unconstitutional means. The second is the support he has received from the armed forces.

When three service chiefs agreed to join the cabinet in November, Dr. Allende was spared the violent collision of forces that might otherwise have been the outcome of the most serious political crisis he had so far had to face. The armed services have been worried since then that they may appear to be underwriting an unpopular programme; an admiral dropped out of the cabinet after the introduction of rationing, although one of his colleagues took his place. General Prats, the army commander and interior minister, insists on his continuing political neutrality. After March 4th, he may have to serve as arbiter between Dr. Allende and a majority in the country who will have declared through the ballot boxes that they want the president either to apply the brakes to the process he has set in motion or resign.

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

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

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a further extension of the period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 5 minutes.

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

THE PRESIDENT'S MESSAGE ON WELFARE

Mr. HARRY F. BYRD, JR. The President of the United States today submitted to the Congress a message, captioned "Information on the State of the Union." A copy has just come to the Senate. I have not had an opportunity to give careful study to the entire message. It is some 17 pages of legal size paper. I have, however, looked over, in some detail, the part of the message dealing with welfare. I am happy to note, Mr. President, that President Nixon has withdrawn—or I guess one should phrase it, will not again submit—the welfare proposals which have been submitted to the two previous Congresses. I think most of us agree that there is a need for welfare reform, but the proposals submitted by the administration, passed twice by the House of Representatives, were not welfare reform; those proposals constituted welfare expansion.

The Senate Finance Committee, twice in two separate years, 1970 and 1972, refused to approve the welfare expansion act. The Senate of the United States last year refused to approve it despite the fact that it had majorities twice in the House of Representatives.

The President's message today makes clear that he has discarded this program. I want to commend him for discarding it.

That proposal, worked up for him by some bureaucrats in the Department of HEW, was not welfare reform at all. It was totally lacking in work incentives. It would greatly add to the cost of welfare. It would write into the law the principle of a guaranteed income. And worst of all, it would have doubled the number of people on welfare. Yes, it would have doubled the number of people drawing public assistance from the taxpayers of the United States.

I think that most of us agree that what we need to do is to create job opportunities. The administration's proposal did not do this.

The President and the administration has discarded its own program and has not brought in a new one. Although it could have taken the Finance Committee action as the basis for a new program, it nevertheless has not done so. And, not having brought in a new program, the President in his message today states:

> I have directed that vigorous steps be taken to strengthen the management of the AFDC through administrative measures and legislative proposals.

The AFDC is the aid to families of dependent children section of welfare.

I am not clear at this point what the legislative proposals are. So, I cannot comment on those. However, the President says that he will take steps to strengthen the management through administrative measures. That is what needs to be done. That is what should have been done last year and the year before that and the year before that. There should be a tightening up of the administrative process. As evidence of that, I cite the President's message of today. Here is what the President has to say:

> The administration of this program is unacceptably loose.

Mr. President, the President in his message today says: "The administration of this program is unacceptably loose."

I made that point time after time to former Secretary of HEW Richardson, when he came before the Finance Committee, that the administration of this program is unacceptably loose.

I am glad to read into the record today the words of the President on that point.

The President goes on to say:

> The latest national data indicate that in round numbers one of every 20 persons on the AFDC rolls is totally ineligible for welfare; three more out of 20 are paid more benefits than they are entitled to; and another 20 are underpaid.

About one-fourth of the AFDC recipients, in other words, are receiving improper payments.

The fact that the President proclaims this indicates a change of attitude on the part of the administration—and is wholesome.

Frankly, I had no idea it was that bad. I knew that it was bad, but I could not get Secretary of HEW Richardson to admit it was bad.

I would much rather, however, have the President of the United States admit it as he does today. He says that one-fourth of the AFDC recipients are receiving improper payments. That is a strong indictment of a department that is charged with the responsibility of administering this program. I made the same indictment of Mr. Richardson when he was before the Finance Committee last year. And I second the President's indictment today.

The President also brings out in his statement:

> Misguided incentives have discouraged employable persons from work and have induced fathers to leave homes so that their families can qualify for welfare.

Mr. President, this welfare mess does need to be cleaned up. And the only way to start cleaning it up is to tighten the administration of the program. The President has taken steps, he says in his message today, to do just that.

Mr. President, this will require firmness. I hope that there will be firmness on the part of the executive branch in regard to this matter.

So, to my way of thinking, the President's message on welfare submitted to the Congress this afternoon is a meritorious one. It is one that I welcome. I welcome it because he proposes to tighten and strengthen the administration of the welfare laws and seek to eliminate from the welfare rolls those 25 percent of welfare recipients who, he says, have no right to be there.

I welcome his message today further because he stated that he is scrapping, eliminating, and will no longer present to Congress his proposal for what was called welfare reform but which was actually a welfare expansion program.

I think it is very important that that program be killed. And I want to give credit for that today. I guess that credit goes to a great many people. So I will not attempt to single out all of them.

However, the one that comes to mind particularly, and the one that comes to mind first, is one who served in this body for 24 years. At the time that this new welfare program was first presented, the then ranking Republican member of the Committee on Finance, the then senior Senator from Delaware was John J. Williams. Senator Williams, with his analytical mind, ability, and integrity, studied this proposal and told the Finance Committee that the proposal was no good and that it should not be enacted.

In doing so, he found it necessary to take issue with the leaders of his own party. Nevertheless, such was the courage of former Senator Williams of Delaware that he did just that.

It was his diligence, his hard work, and his ability that focused attention on a very complex piece of legislation.

So on this day, March 1, 1973, I commend former Senator John J. Williams. The submission to the Senate today of the President's report on welfare is in a very large way a tribute to the work which Senator Williams did in 1969, the last year that he was a Member of the Senate of the United States, before his voluntary retirement.

Another name that comes to mind is that of the chairman of the Committee on Finance, Senator RUSSELL B. LONG of Louisiana. Senator LONG took a very prominent part in the consideration of the administration's guaranteed annual income proposal. He, too, reached the conclusion that the enactment of that legislation, doubling the number of people on welfare, would not be in the best interests of our Nation. Despite tremendous pressure put on him by many sources, and despite bitter newspaper articles against him, the senior Senator from Louisiana stood firm. He was determined, and a majority of the members of the committee of which he is chairman were determined, that any legislation coming out of that committee would provide for work incentives, with the idea of getting people back to work, not with the idea of adding more and more persons to the welfare rolls.

There are many others who played an important part in killing that, in my judgment, very foolish legislation, which was first developed in HEW and then sent to the House of Representatives, passed—very unwisely in my judgment—by that body, and then submitted to the Senate committee for consideration.

I want to reiterate again what that legislation, the so-called family assistance plan, would have done had it been enacted:

It would have written into law the principle of a guaranteed annual income.

It would have increased by at least $5 billion the annual cost of welfare.

It was lacking in work incentives.

And, worst of all, it would have doubled the number of persons drawing public assistance.

So, today, I commend President Nixon for withdrawing the proposal, and I commend him also for having directed a strengthening through administrative measures of the management of the present welfare program.

I commend him as well for his candor in pointing out in his statement that 25 percent of all the people on the AFDC rolls are not properly there. To use his exact words:

> About one-quarter of the AFDC recipients are receiving improper payments.

That is what needs to be stopped, and that is where the administrators must take a strong stand.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair, with the understanding that the recess not extend beyond 5 o'clock today.

The motion was agreed to; and at 4:35 p.m., the Senate took a recess subject to the call of the Chair.

At 4:54 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. GRIFFIN).

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. Without objection, it is so ordered.

AMENDMENT OF RULE XXV—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, yesterday the distinguished majority leader entered a unanimous-consent agreement whereby the vote on Senate Resolution 69—a resolution to amend rule XXV relative to open and closed sessions of committees—would occur at 4 o'clock p.m. on Tuesday next. It is possible that all debate on that resolution—and amendments, debatable motions, or appeals in connection therewith—could expire prior to 4 o'clock p.m. Under the order, we would therefore he held to a vote at 4 o'clock unless the order were changed by unanimous consent. I am going to propound a unanimous-consent request that will allow for a vote on the resolution earlier than 4 o'clock next Tuesday, but which will, at the same time, protect the rights of any Senator who wishes to delay that vote until the hour of 4 o'clock p.m.

It is hoped that a final vote on the resolution could occur earier than 4 o'clock p.m., so as to allow votes on three bills—which will today be reported by the Committee on Veterans' Affairs—before too late an hour on Tuesday evening next. Hence, the following unanimous-consent requests:

ORDER FOR RECOGNITION OF SENATORS ON TUESDAY, MARCH 6, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the distinguished Senator from Oklahoma (Mr. BELLMON) has been recognized, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for recognition of Senators on Tuesday next, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Therefore, Mr. President, I ask unanimous consent that at the conclusion of routine morning business on Tuesday next, the Senate proceed to the consideration of the resolution, Senate Resolution 69.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that the time for debate on that resolution be under the control of and divided between the distinguished Republican leader or his designee and the distinguished Senator from Nevada (Mr. CANNON).

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

Mr. ROBERT C. BYRD. I ask unanimous consent that time on any amendment, debatable motion, or appeal be limited to 30 minutes, the time to be equally divided between and controlled by the distinguished Senator from Delaware (Mr. ROTH) and the junior Senator from West Virginia (Mr. ROBERT C. BYRD).

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time for debate on the resolution be limited to not to exceed 4 hours, with a vote to occur on the resolution at no later than 4 p.m.; that the agreement be in the usual form with respect to nongermane amendments and the yielding of time from time allotted on the resolution to Senators on any amendments, debatable motions, or appeals, et cetera;

Provided further, that if an amendment, motion, or appeal is pending at 4 p.m., the vote on adoption of the resolution would be delayed until the time for debate allowed under the agreement on that amendment, motion, or appeal has expired;

Provided further, that after such pending amendment, motion, or appeal has been disposed of, the vote will occur on the resolution without any other intervening amendment or motion.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the foregoing agreement be subject only to the further approval of the distinguished majority leader.

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

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. At one point in his request, and I do not think it is a major matter—at all—but I wonder whether the Senator meant it that way. He indicated that time on any amendment, debatable motion or appeal would be divided between the Senator from Delaware (Mr. ROTH) and the Senator from West Virginia (Mr. ROBERT C. BYRD). Does the Senator not mean that would be divided between the mover of such amendment and the Senator from West Virginia?

Mr. ROBERT C. BYRD. The Senator is correct. My reason for doing that was, as I attempted to recall how the distinguished majority leader had worded his request yesterday, that I thought that was the way his request was worded, but the Senator from Michigan has called to the attention of the Senator from West Virginia a correction that should be made.

Mr. GRIFFIN. The Senator from Delaware (Mr. ROTH) will, presumably, have an amendment.

Mr. ROBERT C. BYRD. Exactly.

Mr. President, I ask unanimous consent that such modification be made, in accordance with the usual form.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That on Tuesday, March 6, 1973, at the conclusion of the morning business, the Senate proceed to the consideration of S. Res. 69, a resolution to amend rule XXV relative to open and closed sessions of committees, and that time on any amendment, debatable motion or appeal be limited to 30 minutes, to be equally divided and controlled by the mover thereof and the Senator from West Virginia (Mr. Robert C. Byrd): *Provided further,* That no amendment that is not germane to the provisions of the said resolution shall be received.

Ordered, That a vote on the resolution shall occur not later than 4 p.m.: *Provided further,* That if an amendment, motion or appeal is pending at 4 p.m., the time for the vote on adoption of the resolution will be delayed until the debate allowed under the agreement on that amendment, motion or appeal has expired: *Provided further,* That after such pending amendment, motion or appeal has been disposed of, the vote will occur on the resolution without any other intervening amendment or motion.

Ordered further, That on the question of agreeing to the resolution, debate shall be limited to 4 hours, to be equally divided and controlled by the Senator from Nevada (Mr. Cannon) and the Minority Leader or his designee: *Provided,* That the said Senators, or either of them, may, from the time under their control on the adoption of the said resolution, allot additional time to any Senator during the consideration of any amendment, motion or appeal.

UNANIMOUS-CONSENT AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon disposition of Senate Resolution 69 on Tuesday next, the Senate proceed to the consideration of the following three bills and in the order stated:

A veterans' hospital bill, S. 59; the national cemeteries bill, S. 49; and a veterans' drug bill, S. 284.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on each of the following measures, S. 59, S. 49, and S. 284, be limited to 1 hour, with the time to be equally divided between the distinguished Senator from Indiana (Mr. HARTKE) and the distinguished Senator from Wyoming (Mr. HANSEN); that time on any amendment, debatable motion or appeal be limited to 30 minutes and that the agreement on the bill in each instance be in the usual form, with the added proviso that the agreement with respect to any one of the three measures may be subject to the further approval of the distinguished senior Senator from Wyoming (Mr. HANSEN), the ranking minority member of the Veterans' Committee, who is not present in the Chamber at this time.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That, after the disposition of S. Res. 69, the Senate proceed to the following three bills—S. 59 (Veterans Hospital), S. 49 (National Cemetery), and S. 284 (Veterans Drug), in that order and that with respect to each, debate on any amendment, debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, the Senator from Indiana (Mr. HARTKE): *Provided,* That no amendment that is not germane to the provisions of the said bills shall be received.

Ordered further, That on the question of the final passage of each bill debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the manager of the bill, and the Senator from Wyoming, Mr. Hansen: *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion or appeal.

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. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to file reports from the close of business today until 5 p.m. on Monday, March 5, 1973.

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

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10:30 a.m. tomorrow, and that the meeting of the Senate tomorrow be a pro forma meeting only, with no speeches and no business to be transacted, and no insertions.

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

ORDER FOR ADJOURNMENT FROM FRIDAY TO TUESDAY, MARCH 6, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its pro forma meeting on tomorrow, it stand in adjournment until 11 a.m. on Tuesday next.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10:30 a.m., for a pro forma meeting only, with no speeches, no insertions, and no business to be transacted; after which the Senate will adjourn until 11 a.m. on Tuesday next.

After the two leaders or their designees have been recognized under the standing order on Tuesday next, the distinguished Senator from Colorado (Mr. HASKELL) will be recognized for not to exceed 15 minutes; to be followed by the distinguished Senator from Oklahoma (Mr. BELLMON), for not to exceed 15 minutes; to be followed by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes; at the conclusion of which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

At the conclusion of routine morning business on Tuesday next, the Senate will proceed to the consideration of Senate Resolution 69, a resolution to amend rule XXV relative to open and closed sessions of committees. A time agreement has been entered thereon whereby a vote—and it will be by rollcall—on the resolution, as amended, if amended, will occur at no later than 4 p.m. on Tuesday next.

After that resolution has been disposed of, the Senate will proceed to the consideration, in the following order, of S. 59, a bill dealing with veterans' hospitals; S. 49, a bill dealing with national cemeteries; and S. 284, a bill dealing with another veterans' bill.

Yea-and-nay votes may be expected on any one or more or all of these three bills. A time agreement has been entered into with respect to each of the three bills. Consequently, several yea and nay votes will occur on Tuesday next.

ADJOURNMENT TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and at 5:08 p.m., the Senate adjourned until tomorrow, Friday, March 2, 1973, at 10:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 1, 1973:

DEPARTMENT OF THE INTERIOR

Jack O. Horton, of Wyoming, to be an Assistant Secretary of the Interior.

(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.)