By Mr. ROE:

H. Con. Res. 143. Concurrent resolution expressing the sense of the Congress with respect to an international conference on air piracy; to the Committee on Foreign Affairs.

By Mr. BLACKBURN:

H. Res. 268. A resolution to declare U.S. sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. HARRINGTON (for himself, Mr. HELSTOSKI, and Mr. O'NEILL):

H. Res. 269. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and each Delegate to the House, and for other purposes; to the Committee on House Administration.

By Mr. TEAGUE of Texas:

H. Res. 270. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 253; to the Committee on House Administration.

By Mr. THOMPSON of New Jersey:

H. Res. 271. Resolution to provide funds for the expenses of the investigations and study authorized by House Resolution 187; to the Committee on House Administration.

MEMORIALS

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

67. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Virginia, relative to the rural environmental assistance program; to the Committee on Agriculture.

68. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to no-fault insurance; to the Committee on Interstate and Foreign Commerce.

69. Also, memorial of the Legislature of the State of New Hampshire, relative to the observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

70. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to pollution control grants; to the Committee on Public Works.

71. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to reimbursement to localities for certain water pollution control works; to the Committee on Public Works.

72. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to a flood control survey of the Chowan River and tributaries in Virginia; to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ALBERT:

H.R. 5265. A bill for the relief of Leda Morassutti; to the Committee on the Judiciary.

By Mr. FORSYTHE:

H.R. 5266. A bill for the relief of Ursula E. Moore; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

58. The SPEAKER presented petition of the city councils of Anchorage and Fairbanks, Alaska, in joint session, relative to the issuance of a pipeline construction permit from Prudhoe Bay to Valdez, Alaska; to the Committee on Interior and Insular Affairs.

SENATE—*Tuesday, March 6, 1973*

The Senate met at 11 a.m., and was called to order by Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine.

PRAYER

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

O God, we pray for this Nation, born in Thy faith and nourished in Thy truth, that it may seek unselfishly to serve Thy great purposes for mankind, and so prove itself worthy of Thy manifold blessings.

We pray for ourselves in this Chamber, that amid the stress and strife of these demanding days we may be faithful to the highest and best we know. Grant us grace that we may obscure no truth, evade no duty, nor shrink from any sacrifice which will achieve justice and peace.

We pray for all mankind, that we may be joined with the whole family of Thy creation to build Thy kingdom on earth.

Through Him who is King of Kings and Lord of Lords. 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 6, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of March 1, 1973, the following reports of committees were submitted on March 2, 1973:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 721. A bill to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes (Rept. No. 93-53).

By Mr. HARTKE, from the Committee on Veterans' Affairs, with amendments:

S. 49. A bill to amend title 38 of the United States Code in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes (Rept. No. 93-55).

By Mr. CRANSTON (for Mr. HARTKE), from the Committee on Veterans' Affairs, with amendments:

S. 59. A bill to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery (Rept. No. 93-54); and

S. 284. A bill to amend chapter 17 of title 38, United States Code, to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities, and for other purposes (Rept. No. 93-56).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 1, and Friday, March 2, 1973, be dispensed with.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 3298. An act to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act;

H.R. 4278. An act to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973; and

H.J. Res. 393. Joint resolution to amend the education amendments of 1972 to extend the authorization of the National Commission on the Financing of Postsecondary Education and the period within which it must make its final report.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 3694) to amend the joint resolution establishing the Amer-

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ican Revolution Bicentennial Commission, as amended.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. HATHAWAY).

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 3298. An act to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act; and

H.R. 4278. An act to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973; to the Committee on Agriculture and Forestry.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

The Chair recognizes the Senator from Montana.

INEQUITABLE TREATMENT OF INDIANS

Mr. MANSFIELD. Mr. President, first, let me say that I do not believe in assaults on persons or property. With that statement, I wish to discuss the situation at Wounded Knee, S. Dak., where matters remain in a state of uncertainty, with negotiations still going on. It would be my hope that the Federal Government which has a direct responsibility for Indian affairs would undertake a thorough inquiry and investigation into the complaints which have been raised and the reasons for them. When I speak of the Federal Government, I also mean Congress because these decendants of the original Americans, these troubled and unhappy citizens, should be given the full consideration which is their due.

Reference has been made to broken treaties, and I am very certain that many of the treaties which have been entered into between the Federal Government and the various Indian nations and tribes have not been carried out in good faith. On the basis of research, I find the matter is not one for consideration by the Foreign Relations Committee. Evidently, the Foreign Relations Committee was not consulted, nor did it pass on the treaties when they were originally entered into between the Federal Government and the Indian nations or tribes. There are somewhere between 370 and 400 of these Indian treaties and they were entered into on the basis of what we would now call executive agreements, rather than treaties in the strict sense of the word. They were agreements apparently reached between agents of the executive branch of the Government and the Indian tribes and nations, with Congress playing a minor part, if any, in the matters involved. The problems of "one branch" government obviously have long roots.

What is called for, I believe, is a thorough and complete shakeup of the Bureau of Indian Affairs. It may well have to be shaped into a separate, independent agency, staffed by the best people possible, funded adequately and having as its major concerns the rectification of Indian wrongs and the welfare of the Indian people. I should note, in this connection, that President Nixon, in his 1974 budget, has asked for $1.45 billion for Indian affairs which is an increase of more than 15 percent over the total requested for fiscal year 1973.

The treatment of these people, in general, has been based on misunderstanding, a lack of appreciation and a downright exploitation of our fellow citizens down through the years of our history.

If my memory serves me correctly, the last Indian battle occurred at Wounded Knee in 1883 with the annihilation of the Indians. Just 8 years prior to that, the battle of the Little Big Horn took place in Montana—a battle which resulted in the defeat of Col. George Custer and the annihilation of his command. I cite these two dates only to indicate that within the past 100 years there have been difficulties of a savage nature with the Indian population in various parts of our—perhaps I should say, their—country.

The difficulties have not been overcome in recent years, but on occasion, have even been exacerbated. Almost always, the Indian has been the victim. The aggression, the greed, the alleged superiority of the white man, coupled with a lack of understanding and appreciation on the part of the Federal Government, has done much to bring about this strained relationship. It is time to find an equitable solution to the cumulative ills and the evils which have been inflicted on the Indians by the arrogance and insensitivity of the rest of us.

I would point out that the Indians, as a group, have, on a percentage basis, furnished more volunteers in all the wars in this century than any other group. This group, despite its grievances, has proved its loyalty to and love for the United States in times of stress and strain. Very few Indians have ever claimed exemption from military service and no other group, by and large, has been as devoted and as loyal to the country which was once their ancestors' and from which they were driven onto the reservations.

I would suggest, therefore, that the President, in addition to what he has already done, undertake an immediate initiative to bring about a solution to the problems at Wounded Knee, to do so on a basis which would take into consideration the welfare, the well-being of the people involved in this situation and the rectification of wrongs suffered by all Indians. The most serious consideration should be given to abolishing the present Indian Bureau and to replacing it with an independent agency along the lines already suggested. I would also urge the distinguished chairmen of the Senate and House Interior Committees, Senator JACKSON and Representative HALEY, to undertake a thorough investigation to the end that Indian inequities can be removed, wrongs corrected, and appropriate legislation proposed which would treat the Indians in a manner which will rectify as many as possible of the complaints which have been raised.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared by the Library of Congress, Congressional Research Service, on the subject of U.S. treaties with Indian tribes.

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

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 1, 1973.

To: Senate Committee on Foreign Relations.
From: Marjorie Ann Browne, Analyst in International Relations.
Via: Chief, Foreign Affairs Division.
Subject: U.S. treaties with Indian tribes.

Beginning with the ratification of the Delaware Treaty by the Continental Congress in September 1778, and continuing after the adoption of the Constitution in 1789, the United States followed a policy of making treaties with the Indian nations or tribes. This practice continued until the act of March 3, 1871 (16 Stat. 566) by which Congress declared that no Indian nation or tribe would be recognized "as an independent nation, tribe, or power with whom the United States may contract by treaty." [1]

"So far as matters of form and procedure on the part of the United States were concerned, Indian treaties followed precisely the same course as did treaties with foreign nations; after signature they were submitted to the Senate by the Executive, and they received the advice and consent of the Senate, or were rejected, or were amended, as the case might be. Indeed, the practice in the Senate regarding its consideration of treaties generally was considerably influenced in the early years of the Constitution by the procedure in respect of certain treaties with Indian nations." [2] Between 1778 and 1871, 370 treaties were made with Indian tribes and ratified by the Senate.[3] These treaties were considered to have the same authority as treaties with foreign nations; they were all treaties pursuant to Article 2, section 2 of the Constitution.[4] After 1871 agreements

[1] That does not mean that agreements were not concluded between representatives of the colonies or of the United States before 1778 and after 1871. These agreements were not considered treaties, as understood by U.S. constitutional law.

[2] The preceding was taken verbatim from Miller, Hunter, ed. Treaties and Other International Acts of the United States of America, vol. 1. Plan of the Edition, Lists, and Tables. Washington, U.S. Govt. Print. Off., 1931. Pages 5–6.

[3] U.S. Congress. House. Committee on Interior and Insular Affairs. List of Indian Treaties. A Memorandum and Accompanying Information from the Chairman of the Committee on Interior and Insular Affairs . . . to the Members of the Committee. September 8, 1964. Washington, U.S. Govt. Print. Off., 1964. (88th Congress, 2d session. Committee Print No. 33). See pages 1–6 for chronological listing.

[4] Butler, Charles Henry. The Treaty-Making Power of the United States, vol. 2. New York, Banks Law Publishing Company, 1902. Pages 203, 212–215; Cohen, Felix S. Handbook of Federal Indian Law. Washington, U.S. Govt. Print. Off., 1942. (U.S. Department of the Interior. Office of the Solicitor.) Pages 33–36.

with Indian tribes were not considered treaties, although the form and substance was the same.

CONSIDERATION BY THE SENATE

A sampling of the Senate Executive Journal for the period 1841–1845 and the Senate Executive Proceedings for the period 1915–1929 reveals that treaties with Indian tribes, listed apart from treaties and conventions with foreign nations, were sent to the Senate Committee on Indian Affairs, which appears to have had jurisdiction from the time when such treaties were first considered by a standing committee until passage of the 1871 statute. (During the early Congresses Indian treaties were considered by the entire Senate or by a select committee appointed for that purpose.)

It would appear that no Indian treaties were referred to the Foreign Relations Committee. Thus, it could be argued that because the Committee on Interior and Insular Affairs became responsible for relations between the United States and American Indians, it would be the proper committee for consideration of matters arising under treaties with the Indians. However, Senate Rule (number 25) assigns all jurisdiction over treaties to the Foreign Relations Committee, and we have been told by the Senate Parliamentarian that any question involving treaties per se, including Indian treaties would be referred to the Foreign Relations Committee.

On the question of whether the President has the power and authority to make treaties with Indian tribes, in view of the 1871 act, John Bassett Moore, in vol. 5 of the Digest of International Law (Washington, U.S. Govt. Print. Off., 1906. Page 220–221), cites debate on the act:

It was admitted that if the President should undertake to make a treaty with the Indians, Congress could not interfere with his so doing, by and with the advice and consent of the Senate. . . .

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from New York, the acting minority leader, desire to be recognized at this time?

Mr. BUCKLEY. Not at this time, Mr. President.

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

CONDUCTING THE GOVERNMENT'S BUSINESS IN THE OPEN

Mr. HASKELL. Mr. President, I wish to comment briefly today on the necessity of conducting our Government's business in the open. This is a general principle that has been breached both in the executive and in the legislative branches.

I can best express the reasons for conducting the business in the open by quoting the words of Thomas Jefferson who, with his usual economy of phrase, wrote to Baron von Humboldt in 1807:

When a man assumes a public trust, he should consider himself public property.

Mr. President, the fact that in this Chamber we have galleries open to the public, the fact that we have debate in public, and the fact that our votes are recorded, carry out and illustrate the desires of those who formed our Constitution that the business be conducted in the open. The reason is very clear. Public business conducted behind closed doors invites suspicion, invites the suspicion that citizens are not listened to but that possibly special interests are.

It is important today, perhaps more than ever in this country's history, to dispel any suspicion because of the widespread alienation of many of our country's citizens to our Government.

"Washington is not responsive," is a phrase that I heard time after time in the campaign I conducted for this office last fall. The suspicion that exists—at least, in the people to whom I talked in my State—is that not they, the ordinary citizens, are listened to, but that big money, whether the big money to be corporate or whether the big money be union, is listened to.

The real decisions, according to many of those to whom I talked, are made behind closed doors.

Lack of confidence in Government, in my opinion, is probably the single most important problem facing our Nation today. Democracy, for its very existence, depends upon confidence. If the people of our country lose confidence in their Government, we may very well drift, as France may today be drifting, toward a totalitarian form of government.

Therefore, Mr. President, I suggest that we must do everything we possibly can to assure that no business is conducted behind closed doors and that the people's business is accessible to the people. We must insure at this time that our decisions and the decisions of the executive branch are conducted in the open and that the secrecy prevailing in the executive branch, through overclassification of documents and otherwise, is dispelled.

First, however, I submit that we must put our house in order. Today, in a very short time, this body will be discussing a change in the rules of the U.S. Senate. The debate will be as to whether the meetings of all committees, when bills are amended and votes are taken on amendments and on bills, will be open, unless, for good and sufficient reason, by a majority vote be closed.

After 60 days, which is all the time I have been in this Chamber, it is my estimate—an estimate, obviously, on a short period of time—that no Senator can be familiar with all legislation coming before this Chamber. We must depend upon the committee system to hear all parties and to fine-tune legislation to an acceptable form by amending it as necessary.

As a guess—and admittedly at this point it is possibly an untutored guess—I would suggest that 80 percent of the Senate's business is conducted in committee. If I am even close to being accurate, this means that a substantial majority of the decisions are made in committee. These decisions surely must be with open doors and not behind closed doors, which invite suspicion; because to do so behind closed doors, I submit, plays into the hands of our detractors. It increases the alienation of our citizens, and it is harmful to our constitutional form of Government.

Thus, Mr. President, it is my hope that today the rule that will prevail and will be adopted will be one which provides that all committee meetings, for all purposes, except for national security or when other good and sufficient reasons exist, be open to all members of the public.

Once we put our house in order, we can make demands on the executive branch. We can demand an end to its secrecy, to its closed doors, to the decisions that are made by faceless and unreachable appointees.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time does the distinguished Senator from Colorado have remaining?

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

Mr. ROBERT C. BYRD. Would the Senator have any objection to my reserving that time?

Mr. HASKELL. Certainly not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining time be reserved and be controlled by me.

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

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 of the distinguished Senator from Colorado (Mr. HASKELL).

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 time allotted to Mr. BELLMON under the previous order be allotted instead to the distinguished Senator from New Hampshire (Mr. MCINTYRE).

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining time allotted to Mr. HASKELL continue to be reserved.

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

(The remarks Senator MCINTYRE made at this point on the introduction of S. 1100, the National Health Care Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that request?

Mr. MCINTYRE. I withhold it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Sena-

tor's time, if he has any remaining, be reserved.

The ACTING PRESIDENT pro tempore. The Senator has used up his time.

Mr. ROBERT C. BYRD. I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may require to the distinguished Senator from South Dakota (Mr. McGOVERN) out of my time.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. McGOVERN. I thank the Senator from West Virginia.

LEGAL SERVICES

Mr. McGOVERN. Mr. President, it is time for an honest accounting of the administration's efforts to scuttle the OEO legal services program.

Many of us have come to recognize OEO legal services, including the backup system and the Reginald Heber Smith Fellowship program, as one of the most effective and successful programs to come out of the 1960's.

Last year legal services lawyers represented 1.3 million people who would otherwise have been without legal representation—up from 291,000 in 1967. The work includes landlord-tenant, domestic relations, breach of contract, governmental rulings and administrative hearings, and a series of other areas in which all of us must rely on the help of legal counsel. The program has had the services of excellent lawyers, young and old. It is worth noting, too, that the average cost per case has dropped dramatically—from $97 in 1967 to about $59 in 1970—as the program has grown.

The Congress has responded properly to that record with additional funds. From an initial appropriation of $26 million in 1966, legal services funding has risen to $71.5 million for the current fiscal year. At present there are some 2,500 poverty lawyers working out of 900 offices throughout the country.

There was good reason for President Nixon to lay special stress on this program when he announced his broad strategy for dealing with the needs of the poor in his first term. And he did just that. Along with the Family Assistance plan, he announced plans for a "strengthened and elevated" office of legal services. He noted that:

> The sluggishness of many institutions at all levels of society in responding to the needs of individual citizens is one of the central problems of our time.

And he argued that—

> Disadvantaged persons in particular must be assisted so that they fully understand the lawful means of making their needs known and having those needs met.

We were told then that the poor must have advocates in dealing with social institutions, and that legal services was the vehicle.

During that period, many of us concluded that while Mr. Nixon quarreled with the means of the previous administration, he remained committed to the same ends of social justice that have inspired our labors since the 1930's.

But what are we to believe now?

The Family Assistance plan is clearly out of favor at the White House, with Mr. Moynihan off to India and the poor advised to ask what they can do for themselves. Meanwhile, the administration seems to be seething with antagonism toward legal services; either that or Acting OEO Director Howard Phillips, charged with dismantling the agency he heads, is simply incompetent as well as insensitive.

The renewal of all grants expiring before March 1 has been limited to only 30 days, except in very unusual circumstances. Even those grants made for a period longer than 30 days are to have their funds released every 30 days, rather than on the usual quarterly schedule.

In my own State, the annual grant of $300,000 to South Dakota legal services expired on December 31. Yet the funds for 1973 have still not been released—in plain violation not only of the law, but of Mr. Phillips' own 30-day rule. The program is now left with the 400 cases hanging in the air.

Last year, this agency served some 10,000 clients in South Dakota who would have otherwise been without legal advice, The attorney general of South Dakota, the president of the South Dakota Trial Lawyers' Association, a number of States attorneys and many judges have all contacted me testifying to the need for an active and healthy legal services program in South Dakota. Yet if funds are not released immediately, South Dakota legal services will be forced to close its doors in a few days' time.

The same predicament prevails all across the country. In California, some 400 legal services attorneys see an estimated 200,000 low-income clients per year, or 4,000 new clients per week. They carry an open caseload of roughly 60,000 cases. Each of 34 separate programs in the State is a local nonprofit corporation, controlled by the local bar association. Six of those programs have already been forced to close their doors to new clients. Ten more were due to close last week. Those 16 programs alone carry an open load of 37,000 cases, each of them immediately threatened with loss of counsel. And thousands of poor people, urgently seeking legal help, are now being turned away as legal services, faced with a total shutdown within days, are unable—either ethically or legally— to make additional commitments.

Another example of the effect that the administration's policy is having in the field is the case of Appalachian Research and Defense Fund, Inc., a legal aid program administered through the West Virginia Institute of Technology. This program, which handled approximately 3,500 cases in 1972, had its annual grant of $432,000 expire last December 31. Since that time, although they have received a copy of a 4-month extension from OEO, with confirmation on January 30, they have yet to receive a single dollar. The fund has 2,500 open cases pending and all the confirmations in the world are not going to keep their doors open if the funds continue to be withheld.

The 30-day policy was supposed to terminate on March 1. But it does not, of course, make the slightest difference what the grant period is if the money is still tied up in Washington.

I suspect there is no Member of the Congress who could not make a similar report. The legal services program is near a state of chaos nationwide, and everyone who is aware of the condition of the program knows that that is not an exaggeration.

Perhaps the administration does retain an interest in legal advocacy for the poor. But if that is true, then the entire matter has been bungled outrageously. The current situation is plainly absurd.

For that reason, it seems likely to me that the opposite is true and the administration has revealed its real intentions in its own words.

Presumably many Senators have seen the internal memo from Vice President AGNEW quoted in the press:

> Of all the OEO programs, Legal Services is the one most capable of fundamentally altering America. For that alone, it should be the first eliminated.

In other words, what the Vice President seems to be saying is that since this is the most effective program in dealing with the problems of the poor, this is the one that should be knocked in the head first.

We have also seen another memo describing the strategy for dealing with congressional dissent to the swift and successful dismemberment of OEO, by presenting a fait accompli.

I have another instructive memorandum on hand. It is dated February 13, 1973, and it comes from Marshall Boarman, acting director of program evaluation for the Office of Legal Services. He states:

> The problem of what to do about OEO's Legal Services backup centers is most urgent. Howard Phillips asked me to prepare a rationale for phasing them out and replaceing them with an in-house unit.

Mr. President, I want to draw attention to the point that Mr. Boarman makes clear in that memorandum that he was not asked for his judgment about phasing out these backup centers, but was asked by the acting director of the center to prepare a rationale for killing it, not a rationalization of our legal service centers.

Legal services programs throughout the country can currently receive help from any of the 15 national and five State backup centers. These centers, usually affiliated with university law schools, specialize in different aspects of poverty law. They are the real technical expertise for the program.

But what Mr. Boarman said in his memo is that the decision was already made to eliminate the backup centers, and his job was to come up with a reason for doing what the administration had

already decided to do to get rid of the experts.

In his rationale, Mr. Boarman set forth more of the administration's thinking. He said in part:

> If . . . a corporation should indeed be set up, the central problem with which this paper has been dealing, unaccountable advocacy, would be greatly magnified, unless steps are taken now to wind down the backup center as it is presently constituted. This is so because a backup center network funded by a semi-autonomous corporation would be even further removed from Government surveillance and control than is the case at present.

In other words, what Mr. Boarman is saying to his boss is that: "If you really want to gut the legal services organization, make sure that you get rid of these backup centers first. Then the job of killing the program will be made much easier."

The memo speaks of "unaccountable advocacy." But every lawyer is accountable to his client, to standards of professional ethics, and to the law. And the administration has not been able to come up with a single case in which a poverty lawyer has violated those standards. What they are really concerned about is lawyers who are responsive to the poor—as the program intended—but not to politicians.

So under the curious rationale of making the program less political, Howard Phillips is trying to make it more so—to destroy its independence and let political appointees decide when and how the rights of the poor may be asserted. If there is to be a legal services program at all, they are saying in effect that it must be fully responsive to political control from the administration in power.

Mr. Phillips has left little doubt about how much control would be exercised—to interpose political judgments between the low-income client and the law.

He despises this program and he is out to get it. In testimony before the House Committee on Equal Opportunities, he blamed the dramatic rise in the welfare rolls not on high unemployment rates or any other administration policy, but on the "* * * success of some legal service lawyers."

That is not true. But even if it were, Mr. Phillips would be suggesting a shocking, curious doctrine—that the access of poor people to welfare should depend not upon the laws adopted by the Congress, not upon the interpretations of the courts, but simply upon some bureaucrat's decision that they should be unable to assert their right. In other words, he is furious that lawyers acting under the legal services program simply explain to people what their rights are under the law.

Mr. President, this philosophy is an attack on the integrity of legal services lawyers, and it is an assault of some of the most vital guarantees of American citizenship. Everyone in this country should be entitled to legal representation when he is in trouble.

Through the fifth and 14th amendments, the Constitution mandates that every person shall enjoy equal protection of the laws of the United States and the various States. Effective and independent legal representation is the bulwark of this guarantee. A legal services corporation dominated by politics would plainly flout that legal right.

Legal aid attorneys, like all lawyers, are members of the bar in the States in which they practice. As such they are bound by the same canons of ethics that bind other attorneys—including Canon 5 of the Code of Professional Responsibility which states:

> A lawyer should exercise independent professional judgment on behalf of his client. The professional judgment of the lawyer should be exercised within the bounds of the law, solely for the benefit of his client and free of compromising influences and loyalties.

Yet the administration's strategy would require legal services lawyers to be responsible not to their clients alone, but to political influence from above, and this is the nub of the matter.

I hope the Congress will not tolerate this strategy, and I hope the President will instruct Mr. Phillips to abandon his disorderly administration of OEO.

Because of their own concern about some of the points I have been discussing, the House of Delegates of the American Bar Association recently reaffirmed its support for federally funded legal services for the poor. Its resolution of February 16 called for an increased level of Federal funds, a legal services program that is independent from political pressures, and enactment of legislation to establish a Federal legal services corporation reflecting those principles.

That is sound and sensible and fair advice, and it is reflected legislatively in several bills, including S. 706, by Senator MONDALE, to create an independent National Legal Services Corporation. I look forward to early action on legislation of that kind.

In the meantime, common sense alone dictates that existing legal services programs across the country should be funded immediately, pending a determination by the Congress on how the program will be administered when the new fiscal year begins.

Mr. President, the administration's general complaint against the landmark social legislation of the 1960s is that it has not worked. But their real objection to the legal services program seems to be that it has worked too well.

Before they rush that philosophy into public policy, both Mr. Phillips and President Nixon might reflect on the principle stated so well by the eminent jurist Learned Hand:

> Thou shalt not ration justice.

Mr. President, I thank the Senator from West Virginia for yielding time to me.

Mr. ROBERT C. BYRD. Mr. President, the Senator from South Dakota is welcome.

UNITED NATIONS COMMITTEE ON PEACEFUL USES OF THE SEABED AND OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION—APPOINTMENT BY THE PRESIDENT OF THE SENATE

The ACTING PRESIDENT pro tempore (Mr. HATHAWAY). The Chair, on behalf of the President of the Senate appoints the Senator from Washington (Mr. MAGNUSON) as an adviser to attend the meetings of the United Nations Committee on Peaceful Uses of the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction, to be held in New York, March 5–April 6, 1973, and in Geneva, Switzerland, July 2–August 24, 1973.

ORDER FOR RECOGNITION OF SENATORS HUGHES AND BELLMON ON THE NEXT DAY THAT THE SENATE MEETS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the next day that the Senate meets, following the remarks of the two leaders or their designees under the standing order, the distinguished Senator from Iowa (Mr. HUGHES) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished Senator from Oklahoma (Mr. BELLMON) for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF SENATOR BUCKLEY ON THURSDAY

Mr. ROBERT C. BYRD. I ask unanimous consent that on Thursday following any other orders for the recognition of Senators which may already have been entered, the distinguished Senator from New York (Mr. BUCKLEY) be recognized for not to exceed 15 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

TRANSACTION OF ROUTINE BUSINESS

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

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

GHANA—16 YEARS OF INDEPENDENCE

Mr. FULBRIGHT. Mr. President, 16 years ago today, the country of Ghana established its independence and has had a history of considerable diversity, including successes and difficulties since that time.

She has experienced many of the same difficulties the United States is experiencing today, but she has achieved real success in meeting these problems—and I hope we may be able to do as well with our own economy.

For the information of my colleagues, I ask unanimous consent that a statement prepared by the Ambassador of Ghana describing his country's experience be printed in the RECORD.

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

GHANA IS 16 YEARS OLD: THE ACHIEVEMENTS OF THE NATIONAL REDEMPTION COUNCIL

Ghana, which is 16 years old today, has already experienced many vicissitudes. More than one year ago, Ghana had one of the worst balance of payments crises known to the developing world. We were up to our necks in inflation. Food was scarce and the prices were very prohibitive. Today, Ghana is on the way to achieving her first balance of payment surplus in many years. The country's visible balance of trade during 1972 showed a moderate surplus as against a deficit in 1971. We have succeeded at the same time in controlling inflation and our food production has shown a remarkable increase. We have done this from our own resources, without borrowing and adding to our external debt burden.

Our policy of self-reliance has paid off very well for not only have we been able to grow enough food for our people but we are also working hard to produce raw materials for our industries. From the results of "Operation Feed Yourself", we are moving forward to involve all the people in development through a new co-operative program which will lead to the creation of co-operative societies. We are moving the principle of self-reliance to a new plane where the people will not only feed themselves but will work to change their entire living conditions.

We have launched a campaign to provide houses for the people and we are adapting our educational system to suit our development needs.

The students of our three universities without prompting, voluntarily decided on their own to assist in the harvesting of sugar cane and to plough the land to mark a new turning point in our history inspiring a nation-wide determination to conquer the land and feed ourselves from its resources.

We recognise that the type of education imposed by colonialism has been detrimental to our interests. We have been brought up to hold white collar jobs in reverence and to look on manual labour with scorn. The result is that with our fertile land, abundant water and our proverbial sunshine, Ghana has been one of the greatest importers of food.

We are taking steps to correct this situation. The curricula of our educational systems, from primary to university, are being revised to reflect the needs of our society. The Government is taking steps to involve the institutions of higher learning in the practical problems of development.

The Agricultural Faculties of the University of Science and Technology and the University of Ghana have been asked to join the State Farms Corporation and the Agricultural Development Bank in a consortium to plan and implement a programme of oil palm development designed to make Ghana self-sufficient in oil palm production!

A similar consortium is to be promoted again by the two faculties, the Agricultural Development Bank and the Cattle Development Board to plan and execute a project to make Ghana self-sufficient in the production of cattle and meat preparations.

The Physical Planning and Architectural Departments of the University of Science and Technology have been requested to undertake project studies for the replanning and modernisation of our cities and the planning of new townships which will replace some of our villages.

Priority is being given to the training of Ghanaians for the high technical grades of the mining industry and for all the key sectors of our economy. This is to prevent the domination of our economy by powerful foreign interests.

In our world today, it is impossible for any single country to do it alone. The people and nations of the world must depend upon one another but this process of inter-dependence must be based on the new concept of partnership expressed in the form of joint ventures. Instead of seeking total ownership of major economic enterprises, we are asking foreign businessmen to think of joint ventures with our people so that the profits they earn may be jointly shared, partly for the development of the land and partly to reward the foreign entrepreneurs.

It is on the basis of this that the National Redemption Council has taken steps to acquire majority shareholding in our main extractive industries. Ghana already has such fruitful partnerships with a number of United States businesses.

This is a Government which in just over one year has shown practical understanding of our problems to evolve realistic plans to resuscitate our economy.

The National Redemption Council has recently been described by West Africa, a magazine published in Britain, as purposeful, energetic, honest, and worthy of every help from abroad. The magazine, in addition, has admitted that its earlier misgivings about the Council were wrong.

The people of Ghana through a determined effort of self-reliance and loyalty are making their country a much happier place to live in. We shall overcome.

THE SOCIAL SERVICES FUND

Mr. FULBRIGHT. Mr. President, a few days ago I joined 45 of my colleagues in a bipartisan letter to the Secretary of Health, Education, and Welfare stressing the serious impact which certain proposed changes in the Federal regulations for social services would have in my own State and across the country.

The Department's proposals, which were published in the Federal Register of February 16, would drastically revise the eligibility standards for social services, the kind of services which could be provided, and the qualification of State and local matching funds required for Federal assistance to community programs. If adopted in their present form, these proposals would result in the abolishment of some of the most worthwhile programs in Arkansas.

The Washington Post of Sunday, February 17, contained an editorial which provides an excellent analysis of the long struggle over the Federal Social Services Fund and a good account of the present controversy. In view of the importance of the outcome of this controversy to the thousands of Arkansans currently being helped through programs which operate with Federal assistance from the Social Services Fund, I ask unanimous consent that this editorial be printed in the RECORD.

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

THE SOCIAL SERVICES FUND

Things are never quite what they seem, in the long struggle over the federal Social Services fund. The public has fallen under an impression that Mr. Nixon is drastically cutting federal outlays on social welfare, and rapidly returning broad discretion to the states. Neither half of that impression happens to be true, in the case of the massive Social Services fund, but it suits the purposes of neither the administration nor its critics to say so out loud. In fact, the Social Services fund has evolved into a careless and unintentional kind of revenue-sharing. The administration's desperate attempts to control it have nothing to do with the ideological warfare over the Great Society. To the contrary, they offer a highly Instructive premonition of the troubles that President Nixon may have with his further experiments in revenue sharing.

The Social Services fund has had a bizarre history. An obscure item in the budgets of the 1960s, it offered states three-fourths of the cost of certain services to help people get off, or keep off, welfare. The fund ran to $366 million a year when Mr. Nixon took office. But then the California state government perceived that, if viewed with imagination (and sympathy), half the state's budget might be considered to be social services. The federal fund started to shoot up in 1970, with 40 per cent of it going that year to one state—California, where a Republican governor was running for re-election and did not care to raise taxes. Then New York began to see the potential in this interesting fund. From state to state, word spread. Congress had never put a limit on the fund. The Treasury was obligated to pay three-fourths of the cost of any state or local program that met the definitions set by the Department of Health, Education and Welfare. HEW's definitions turned out to be strangely loose and inviting. The Social Services fund paid out $800 million in fiscal 1971, and $1.9 billion in 1972. The states' applications shot upward as they grew increasingly audacious in shifting large parts of their routine budgets onto the federal Treasury.

At the beginning of last year, the administration originally budgeted only $1.2 billion for this fund in fiscal 1973. But the states' demands totaled twice as much by last May, and by June they came to $5 billion. HEW urgently warned the White House, but the White House told the department to keep quiet and do nothing. The President, it might be recalled, was then running for reelection and wanted no trouble with governors. Later in the summer Jodie Allen, an economist at the Urban Institute, published the figures. In a flurry of embarrassment the President and Congress hastily agreed to place a limit of $2.5 billion a year on the fund.

The current stage of the controversy began last week when HEW brought out new regulations for the Social Services fund. These regulations are a reversion, almost to the point of parody, to the worst traditions of an ingrown and paternalistic bureaucracy. A state can extend services to an individual person, under this program, only after a social worker has drawn up a "service plan" for that person, proving his eligibility, listing what services he is to receive, showing how they will lead to "goals" and setting "target dates for goal achievement." And it all has to be reviewed every six months. Boom days are ahead for the paper industry and for

the legion of minor clerks who will crank the wheels inside this large new welfare machine. But for that part of the population which is poor, and may actually need help, the outlook is not so jolly.

As a budget device, the new regulations amount to impoundment by red tape. Although the authorization is $2.5 billion, Mr. Nixon's budget provides only $1.9 billion for it next year. The administration is clearly counting on the weight of the regulations to prevent the states from obtaining full allotments.

One sad and revealing provision in the regulations prohibits states from using private funds, donated to voluntary social agencies as matching money in this program. In his first term, Mr. Nixon talked much about the crucial role of the volunteer in American society. Apparently that idea also is fading.

The collision between the states and the Nixon administration over the Social Services fund has nothing to do with the New Deal or the 1960s. The fund took off upward under the Nixon administration, which deliberately exploited it as revenue-sharing to certain key states. It then flew out of control altogether. Now the administration is trying to recapture it by drawing up regulations of a density and detail calculated to discourage states from using it. The next question is whether this melancholy experience does not foreshadow the mistakes still to be made in President Nixon's other revenue-sharing ventures.

A GREEK TRAGEDY: THE CASE OF DR. PANDELAKIS

Mr. FULBRIGHT. Mr. President, the New York Times of February 21 reported that a special military tribunal in Athens has sentenced two prominent Greek citizens to long prison terms on charges of planting bombs. The New York Times press report alleges that one of those sentenced, Dr. Stephanos Pandelakis, was subjected to torture.

These allegations of torture of Dr. Pandelakis are not new. On August 4, the New York Times published a story by James Becket about the Pandelakis case. After reading the story, I wrote the Secretary of State and said that I would appreciate knowing whether the Embassy in Athens had any information with respect to Mr. Pandelakis or any basis on which to judge the accuracy of the facts alleged by Mr. Becket. The Department of State replied that the Embassy in Athens had been requested to investigate the matter. In a further letter, dated September 15, the Department passed on to me the results of the Embassy's investigation. According to the Department's letter, the exact charges against Mr. Pandelakis had not been specified, no date for trial had been set, the Embassy had learned from "competent authorities" that Mr. Pandelakis was in satisfactory health, but was not in a position to confirm or refute allegations that he had been subjected to mistreatment, and the Embassy had not been able to determine whether he had been held incommunicado subsequent to his arrest.

On September 21, I again wrote the Secretary of State asking a number of further questions including what the provisions of Greek law were with respect to specifying charges, how long a citizen could be held indefinitely without charges being specified, from what "competent authorities" the Embassy had learned that Mr. Pandelakis was in satisfactory health and whether the Embassy had been in contact with members of Mr. Pandelakis' family. The Department of State replied in a letter dated October 27.

I ask unanimous consent that the report from the New York Times of February 21, the story in the August 4 issue of the New York Times and my exchange of correspondence with the Department of State be printed in the RECORD.

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

[From the New York Times, Feb. 21, 1973]

GREECE FINDS TWO GUILTY AS REBELS—COLONEL AND DOCTOR, ALLEGING TORTURE, ARE SENTENCED

(By Alvin Shuster)

ATHENS, February 20.—A Greek war hero and a well-known physician were sentenced to stiff prison terms today on charges of planting bombs in protest against the Greek Government.

A special military tribunal which heard testimony for two days, sentenced Anastasios Minos, a 53-year-old retired air force lieutenant colonel, to nine years and ten months. Dr. Stefanos Pandelakis, a 43-year-old pediatrician, was sentenced to seven years and eight months. There is no appeal.

The trial has stirred unusual attention in Greece and abroad because of the prominence of the defendants. They confessed to having planted the bombs, but declared that their confessions were obtained under torture.

Evaghelos Sloratos, the prosecutor, rejected the assertion that the defendants had taken precautions to insure that no one was hurt by the blast. He added:

"They are terrorists. They have no respect for the life or physical integrity of fellow human beings."

Colonel Minos, who said that the planting of the bombs had been his only means of protesting against a regime imposed by force, is a World War II hero who fought in occupied Greece and with the British in North Africa. He also flew bombing raids against Greek Communist insurgents in the late nineteen-forties.

He told the five uniformed judges today:

"I am prouder of what the indictment says about me than of my war records."

Dr. Pandelakis was described by two American professors who testified in his defense as an outstanding pediatrician with a worldwide reputation. The testimony came from Dr. Saul Blatman, Professor of Maternal and Child Health at the Dartmouth University Medical School, and Dr. Leon Eisenberg, professor of psychiatry at Harvard.

Although the court brushed aside charges of torture, the families of the two defendants circulated statements describing the treatment in detail. They said that the statements came from the defendants.

According to the statement attributed to Dr. Pandelakis, he was arrested at 10:30 in the morning last April 22. When he refused to provide the information demanded by the security police, the statement said, they took him to a back room to a wooden bench.

The statement continued:

"Swearing, using insulting language and laughing at me, they took off my jacket, made me lie down on the bench on my back, took off my trousers and shorts, tied up my legs, hands and body tightly with a thick rope and covered my face with a towel so I couldn't see.

"They told me I have five minutes left to talk before they would deal with me. I continued to keep silent and I suddenly felt a pointed object scratching the skin of my lower abdomen. After a while, when someone gave the word, the machine was switched on and I started to feel excruciating pain.

"I thought that they were tearing my flesh. I was violently twitching and jerking. This became increasingly more intense as they moved it all around my stomach and genitals. I was howling with pain."

The statement said the torture consisted of electric shocks and that, after a pause, it resumed as Dr. Pandelakis continued to refuse to name accomplices. Finally, it said, the security officers agreed he had enough.

"I got up dizzily," the statement said. "I picked up my trousers and was taken down to the second floor. I signed what they wanted. It must have been 2 o'clock in the morning."

A statement that members of the Minos family said came from the retired military officer also went into detail in supporting his assertions that he was tortured.

Nearly 40 pages long, the statement quoted Colonel Minos as saying that he had been forced to stand for 11 days and nights, during which time he had been beaten by soldiers and had suffered hallucinations.

"My feet are so swollen that the flesh overflows my shoes like a cake that overflows its pan," the document said, adding:

"I've lost the sense of time. It becomes day, noon and night and I stand always at the same place, sleepless, beaten and insulted."

Dr. Eisenberg, who said he first met Dr. Pandelakis in 1969, charged tonight that the trial was a "travesty of justice." He said that the defendants' statements that they had been tortured should have led to an immediate investigation by the court before it proceeded with the case, but that the court had said instead the matter was of no concern.

The defendants were arrested as the alleged founders of an anti-regime underground organization known as A.A.A.—the initials stand for the Greek words resistance, liberation and independence. The group had taken responsibility for about 15 explosions, most of them under the parked cars of American diplomats and officials. There were no casualties.

TORTURE AS AN INSTITUTION

(By James Becket)

GENEVA.—I have just learned that a friend, Stephanos Pandelakis, a Greek pediatrician, has been tortured. For nine days after his arrest in Athens in April no one knew where he was. He was alternately kept in a dark hole and beaten, which he was able to stand, and then tortured with electricity which he was not able to stand.

Because I know him, my personal anguish is immediate and overwhelming. Yet Stephanos is only one of thousands of victims of a practice that seems to have erupted around the world—the use of torture by governments as a means of governing.

Whether the methods be modern as in the mental asylums of the U.S.S.R. or primitive as in the torture chambers of Brazil, torture has become institutionalized, its practitioners generally members of the military and security forces, part of the state administration. This phenomenon is something other than the excesses of individual police officers known to every country, or the mass atrocities of wars like Algeria and Vietnam; it is the deliberate and systematic use of torture against the citizen who is believed to oppose the state.

Torture as an open means to preserve a ruling system is not new in history, one need only recall the inquisition or the torture of slaves in ancient Greece and Rome. However, over the last two centuries a consensus against torture grew up, finding international expression in Article 5 of the Universal Declaration of Human Rights.

A climate was created where at least the torturer felt compelled to deny it. But today reports of torture come from every quarter. One day we read about the burning "metal table" in Iran and the trials where the only

evidence are the confessions of those to be executed; another day it is Uruguay where the recent discovery of a judicious blend of physical torture and "truth drugs" has produced spectacular results, or Northern Ireland where the British Army employs the same refined techniques it used in Cyprus and Aden.

Some argue that this development in the 1960's was the justified response to terrorism, to the violent apostles of Guevara and Marighella. Yet in the majority of cases torture preceded the urban guerrilla. The Greek colonels used it from the first day of their coup, it was used in Algeria long before the F.L.N., it was used in Brazil from 1965 on, in Russia where the dissenters are nonviolent, in Turkey it was used before the first kidnapping. In most cases, state terrorism preceded opposition terrorism.

In looking for the reason for its growing use, the essential point is that torture is politically very effective, particularly for those who govern without the consent of the governed. Those who condemn torture on practical grounds, "there are better ways to get information," miss its major political use, which is not to gain information, but to neutralize the majority of the population. If the state sets torture as the price of dissent, the rulers can be assured that only a small minority will react. This minority can then be isolated and the repressive power of the state concentrated on it. The human tragedy is that this minority generally includes the most idealistic and generous spirits of the society who feel the moral obligation to resist a system part of which is based on torture.

What is most bitter for the victim is his helplessness. There is no international protection of human rights, the Universal Declaration is only that, the U.N. Human Rights Commission is a mockery, and the one regional system that has some power, the European Convention on Human Rights, was employed in the case of Greece. The regime was found guilty of torture and ostracized from the Council of Europe. This has hardly helped Dr. Pandelakis.

Although we Americans are tired of being blamed for the ills of this world, it is valid to raise the question of why so many of our client states, the Greeces, the Brazils, the Portugals of our world use these methods as an administrative practice. There is the unfortunate coincidence that a number of the torturers have received police training in the U.S. under A.I.D. programs. While it is impossible to believe that foreigners would be taught methods of torture in the U.S., one would also have thought it impossible that those who wield real economic and political power in this country would not condemn these practices. And yet we see the Rockefellers attack a New York television station for showing a film about torture in Brazil rather than condemn the practice in Brazil, and we see Mr. Nixon's Administration embrace the Shah of Iran, Premier Papadopoulos and the Brazilian generals rather than rap them on the knuckles.

Perhaps the most depressing side of these depressing developments is the attitude of public opinion. The public seems to have lost its capacity to be shocked, responding with indifference and even signs of acceptance. Surely this would be one issue on which mankind could continue to agree, at least on the principle. Torture is the ultimate corruption, the grossest denial of man's humanity, and its use never justified.

AUGUST 4, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State, Washington, D.C.

DEAR MR. SECRETARY: I am writing you with reference to an article in the August 4 issue of the *New York Times* regarding the alleged torture of a Greek pediatrician, a copy of which is enclosed. I would appreciate knowing whether the Embassy in Athens has any information with respect to Mr. Pandelakis or whether the Embassy has any basis on which to judge the accuracy of the facts alleged.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., August 21, 1972.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of August 4 concerning the alleged arrest and torture of Stephanos Pandelakis that was reported in a recent newspaper article.

The American Embassy in Athens has been requested to investigate the matter, and I will be pleased to forward its findings to you as soon as they are received.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C., September 15, 1972.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: With regard to your letter of August 4 concerning the arrest and confinement of Mr. Stephanos Pandelakis, I am pleased ot pass on to you the results of the Embassy's investigation of this matter.

Mr. Pandelakis and two other Greek citizens were arrested by Greek authorities on April 22 this year reportedly for alleged complicity in placing nineteen explosive devices in the Athens area during the period between February 8 and the date of their arrest. The targets of these bombs included the private vehicle of the American Consul General, Archbishopric building, and French Embassy property. At this time Mr. Pandelakis is under confinement awaiting trial. The exact charges against him have not been specified as yet nor has a date for trial been set.

The Embassay has learned from competent authorities that Mr. Pandelakis is in satisfactory health although neither the Embassy nor the Department of State is in a position to positively confirm or refute the allegations that he has been subjected to mistreatment. The Embassy has not been able to determine whether or for what period Mr. Pandelakis may have been held incommunicado subsequent to his arrest. However, it is known that the general practice of the Greek authorities normally limits any period of solitary confinement in cases such as that of Mr. Pandelakis to only a brief period for initial interrogation. At this time, Mr. Pandelakis reportedly enjoys the rights and privileges normally accorded to other prisoners. These include access to counsel and visits by members of his family.

I regret that we have been unable to provide you with more detailed information in response to your inquiry, but I hope that the above will prove helpful. Please continue to call upon me whenever you believe we can be of assistance to you.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

SEPTEMBER 21, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: On August 4 I wrote you concerning an article in the New York Times which alleged that a Greek pediatrician, Stephanos Pandelakis, had been tortured. I said that I would appreciate knowing if the Embassy in Athens had any information on which to judge the accuracy of the facts alleged. Mr. Abshire replied for the Department of State in a letter dated September 15. That letter leads me to ask the following further questions:

1. Mr. Abshire's letter states that Mr. Pandelakis and two other Greek citizens were arrested on April 22 "reportedly" for their complicity in placing explosive devices in the Athens area. I would like to know what the word "reportedly" means in this sentence. Does it refer to press reports or to statements by Greek officials?

2. Mr. Abshire also states that the exact charges against Mr. Pandelakis "have not been specified as yet nor has a date for trial been set." What are the provisions of Greek law with respect to "specifying" charges against a citizen who has been arrested? Must charges be "specified" within a certain time after arrest or can a citizen be held indefinitely without charges being "specified"? What are the provisions of Greek law with respect to setting a date for trial? Is there a specific period after arrest within which a date for trial must be set or can a citizen be held indefinitely without trial?

3. Mr. Abshire's letter goes on to state: "The Embassy has learned from competent authorities that Mr. Pandelakis is in satisfactory health although neither the Embassy nor the Department of State is in a position to positively confirm or refute allegations that he has been subject to mistreatment." Who were the "competent authorities"? How has the Embassy "learned" that Mr. Pandelakis is in satisfactory health in view of the fact that the Embassy is apparently not in a position to confirm or refute allegations that Mr. Pandelakis was tortured? Does this sentence simply mean that Greek officials told an Embassy officer that Mr. Pandelakis was in satisfactory health? What efforts has the Embassy made to obtain information which would enable it to "positively" confirm or refute allegations that Mr. Pandelakis had been tortured? Has the Embassy been in contact with members of Mr. Pandelakis' family, with his counsel or with Greek "competent authorities" on this question? Does the Embassy have any information at all regarding the alleged torture of Mr. Pandelakis? The use of the word "positively" in Mr. Abshire's letter would so indicate.

4. Mr. Abshire's letter then states: "At this time, Mr. Pandelakis reportedly enjoys the rights and privileges normally accorded to other prisoners." What does the word "reportedly" mean in this sentence? If Mr. Pandelakis "reportedly" now enjoys the rights and privileges normally accorded to other prisoners, including access to counsel and visits from his family, can the Embassy determine when these rights and privileges were restored to him?

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., October 27, 1972.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of September 21 in which you ask a number of questions with reference to my letter of September 15 concerning the arrest and imprisonment of Dr. Stephanos Pandelakis.

In response to your first question concerning the use of the word "reportedly" in reference to the date of and reason for Mr. Pandelakis' arrest, the Athens press of April 30 identified Mr. Pandelakis as one of those persons arrested in connection with two explosions that damaged American-owned automobiles on the evening of April 20/21. The

Athens press of May 4 carried a Greek Ministry of Public Order statement alleging that Mr. Pandelakis, among others, was responsible for placing a total of nineteen explosive devices in the Athens area between February 8, 1972 and the date of his arrest.

Concerning the first part of your second question, i.e. "specification" of charges against an individual arrested in Greece, Greek law provides that no person, except one apprehended in *flagrante delicto*, can be arrested without a judicial warrant stating the reasons therefor. Within twenty-four hours of the arrest the suspect must be presented before an examining magistrate for a hearing of the case. Within three days of this presentation (or five at the request of the suspect), the magistrate must charge him with specific violations of specific provisions of the law. With respect to setting a trial date, Greek law provides that pretrial imprisonment may not exceed six months in the case of misdemeanors and twelve months for felonies under ordinary circumstances, but that in exceptional cases, these time limits may be extended by an additional three months for misdemeanors and six months for felonies.

It should be noted that the relevant provisions of Greek law are not set forth in any one document. The description presented above represents the interplay of various articles of the Greek constitution, constituent acts, legislative decrees, royal decrees, civil and military penal codes, and armed forces command proclamations.

As you know, there are certain bounds to the inquiries and representations that our government can appropriately make on behalf of individuals who are arrested and detained by the authorities of other governments and who have no claim to American nationality. Even though we may have an active interest in specific cases, there are limits to what we can effectively do to influence favorably their outcome. Such information as we can obtain about the treatment of such persons is derived from contact with local government authorities, newspaper and other public accounts, and interested private parties. As we have no direct access to the individuals imprisoned, we are unable to "positively confirm or refute" allegations of mistreatment.

We must, of course, be careful in discussing the sources of any specific information provided in confidence to the Embassy. However, in Mr. Pandelakis' case, the Embassy indicates that reports derived from several sources appear to confirm that he is in satisfactory health.

Our Embassy in Athens has not contacted the family of Mr. Pandelakis or his counsel. We have asked the Embassy to attempt to learn when the normal rights and privileges of prisoners in Greece, including access to counsel, visits by his family, receipt of mail, and access to physicians, were restored to Mr. Pandelakis. If the Embassy is able to obtain this inforamtion, I will, of course, inform you. If you would like to discuss this case further, Mr. George Churchill, the Country Director for Greece, would be pleased to call on you at your convenience. If we can be helpful to you in any other way, please let me know.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

Mr. FULBRIGHT. Mr. President, I continue to be appalled at these reports of mistreatment of prisoners and lack of regard for due process of law on the part of Greek authorities. It is, of course, a prerogative of the Greek Government to deal with its citizens in whatever way it wishes. But we continue to lend our support to that regime through arms sales, the home porting of U.S. naval vessels, and visits by high-level American civilian and military officials, many of whom make public statements replete with kind for the Greek regime. At the same time, despite years of close association with various governments in Greece and hundreds of millions of dollars in military and economic assistance, our officials in Greece seem to know little about events in that country, as I believe my exchange of correspondence with the Department of State so clearly shows. They not only know very little, but they do not seem to care very much. This is the sort of policy which causes great concern and even disillusionment on the part of many American citizens who cherish the reputation of this country for being a humane society and interested in the preservation of some degree of democracy. When they see us supporting with vast amounts of aid those governments which still engage in torture of their citizens, it is, I submit, one of the reasons why there is so much discouragement about the course of our foreign policy in recent years.

Accordingly, I hope that some of my colleagues will take a greater interest in the kind of activities around the world which we are supporting with our foreign aid program.

Mr. President, I yield the floor.

ORDER FOR EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. BIDEN). Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, how much time remains for the transaction of routine morning business?

The PRESIDING OFFICER. Four minutes remain.

Mr. ROBERT C. BYRD. Mr. President, I ask that the time for morning business be extended for not to exceed an additional 10 minutes.

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 second assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 58, Senate Concurrent Resolution 6.

The PRESIDING OFFICER (Mr. BIDEN). The resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 6) making apportionment of funds for the National System of Interstate and Defense Highways.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Public Works with an amendment to strike out all after the resolving clause and insert:

That the Secretary of Transportation shall apportion $1,000,000,000 of the sums authorized to be apportioned for fiscal year 1974 for immediate expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in Revised Table 5, House Report Number 92-1443.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAKER. Mr. President, Senate Concurrent Resolution No. 6, which was reported unanimously from the Committee on Public Works, is an emergency measure designed to assure that interstate highway funds continue to be available for obligation by the States without interruption. This resolution directs the Secretary of Transportation to apportion $1 billion of the $4 billion authorized for the Interstate Highway System for fiscal year 1974 upon the basis of the 1972 cost estimate. The availability of these funds is especially critical as the buy spring construction season approaches.

While Congress in 1970 authorized funds for the interstate program through fiscal year 1976, these funds cannot be apportioned for obligation by the States until the revised estimate of the cost to complete the Interstate system is approved by Congress. The share of each State of the funds available for the interstate program is based upon the ratio of the costs of completion of the system within each State to the total system cost. Usually the estimates of these costs are approved at the close of each Congress, but Congress was unable in the closing hours of the 92d session to conclude action on the Federal-aid Highway Act of 1972, and the revised 1972 cost estimate was not approved.

It has been the practice of many of the States to contract after the first of the year on the basis of apportionments made from authorizations for the fiscal year beginning the following July 1. Since the spring construction season is normally the one in which the most contracts are let for bids, these States are in immediate need for fiscal year 1974 apportionments. If Congress delayed action upon the approval of the revised cost estimate for only a few more weeks it would result in an interruption of State construction schedules. In several States this would result in even further delays in the completion of vital segments of their interstate system. In as many as 16 States it would cause substantial reduction in construction activities with repercussions in the labor and economic areas.

Section 103 of S. 502—the Federal-Aid Highway Act of 1973—mandates approval of the apportionment factor for the entire interstate authorization. This bill is presently under consideration in the Public Works Committee. Although the committee is dedicated to the expeditious consideration of this legislation, it is estimated that final enactment of the measure may require several weeks.

The Federal-aid highway law permits approval of the revised cost estimate by congressional resolve. Thus, although Senate Concurrent Resolution 6 enjoys the support of the administration it will become effective immediately upon passage by the House without Presidential signature.

Senate Concurrent Resolution 6 is only an interim measure. It will not supplant the need for further action in the near future to make the total authorization available to the States. But Congress must act now to approve the noncontroversial 1972 cost estimate. Several States, my own among them, are on the brink of exhausting their interstate highway funds. One, Virginia, has already run out.

I ask unanimous consent to have printed in the RECORD a summary of those States who have nearly exhausted available funds and a list of the funds which would be apportioned to the States by the concurrent resolution.

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

UNOBLIGATED BALANCES OF APPORTIONED FEDERAL-AID HIGHWAY FUNDS

NUMBER OF STATES WHOSE FUNDS ARE NEARLY EXHAUSTED

Interstate System (as of February 1, 1973): One State (Virginia) has no funds left. Eight States have less than $5 million remaining: (1) Arkansas; (2) California; (3) Delaware; (4) Kansas; (5) Kentucky; (6) Mississippi; (7) Tennessee; (8) Texas.

Seven States have between $5 million and $10 million remaining: (1) Maine; (2) Nevada; (3) New Mexico; (4) North Dakota; (5) South Carolina; (6) South Dakota; (7) Vermont.

Five States have between $10 million and $20 million in unobligated balances.

All other States have more than $20 million.

Interstate funds to be available to the States under the $1 billion apportionment include

(In millions)

Alabama	$20
Arizona	20
Arkansas	7.6
California	65
Colorado	20
Connecticut	29
Delaware	1.5
Florida	31
Georgia	24
Hawaii	10
Idaho	4.4
Illinois	49
Indiana	12
Iowa	10
Kansas	12
Kentucky	14
Louisiana	30
Maine	5.2
Maryland	38
Massachusetts	31
Michigan	35
Minnesota	23
Mississippi	8.9
Missouri	19
Montana	10
Nebraska	$1.5
Nevada	4.9
New Hampshire	4.4
New Jersey	28
New Mexico	9.3
New York	38
North Carolina	18
North Dakota	1.5
Ohio	30
Oklahoma	7.2
Oregon	25
Pennsylvania	49
Rhode Island	8.9
South Carolina	8.2
South Dakota	3.6
Tennessee	13
Texas	45
Utah	11
Vermont	3.8
Virginia	43
Washington	36
West Virginia	23
Wisconsin	11
Wyoming	5.6
District of Columbia	24

Mr. BENTSEN. Mr. President, when the Congress failed last year to enact a new Federal-Aid Highway Act, the Secretary of Transportation was denied the authority to apportion funds for continued construction of the Interstate Highway system to the States. Normally, interstate funds are apportioned and become available for obligation 6 months in advance of the year for which they are authorized. Under this system, fiscal year 1974 interstate funds could have been apportioned and released to the States in January of this year. Many States had geared their construction schedules in anticipation of these funds. Therefore, when there was no authority provided for the Secretary to apportion the funds, the States were caught short. Many had already obligated substantial portions of their fiscal year 1973 funds. A number of States have exhausted their available obligational authority and with each passing week, their ability to continue interstate construction diminishes.

Mr. President, there were a number of controversial issues in the highway bill last year and there are still several critical questions that must be resolved in 1973 before we can successfully act on a new highway bill.

There was no controversy last year over continued development of the interstate system and there is none this year. There are questions as to the funding level which should be committed to the interstate system between now and the time it is completed.

But, it is generally accepted that progress must be continued. Senate Concurrent Resolution 6, which we consider today, would direct the Secretary of Transportation to apportion to the States $1 billion of the money already authorized for interstate construction in fiscal year 1974. Although the full amount authorized for fiscal year 1974 is presently $4 billion, the committee chose to apportion only $1 billion at this time for several reasons. The availability of $1 billion would permit the States to award construction contracts this spring at the beginning of the construction season when activity of this type normally is greatest. Further, the committee did not believe it would be wise to apportion the full amount since we are now considering a reduction in the annual authorization for interstate construction.

The new Federal-Aid Highway Act (S. 502) reported last week by the Subcommittee on Transportation, reduces the annual interstate apportionment from $4 billion to $3.25 billion. In addition, in recent years, there has been the practice of the administration to withhold from obligation part of the amount authorized by the Congress. During fiscal year 1973, for instance, only $2.8 billion of the $4 billion authorized was released by the administration. Therefore, while the $1 billion authorized for apportionment in the Senate Concurrent Resolution 6 is only one-fourth of the amount authorized by law. It is approximately 40 percent of the $2.6 billion which the administration has indicated it will release in fiscal year 1974.

Mr. President, the adoption of Senate Concurrent Resolution 6 will in no way impair the ability of the Congress to enact a new general highway bill. It has been considered by some that the urgent need for interstate funds would be an incentive for prompt action on the bill.

The committee considered this situation in deciding to apportion only $1 billion at the present time. The continued nonavailability of the remainder of the fiscal year 1974 funds should remain as one of the encouragements for prompt action, but reduce the pressure sufficiently to prevent us from being rushed more than is necessary for the thoughtful deliberations that are required on the highway transportation issues we face this year.

Mr. President, the adoption of Senate Concurrent Resolution 6 will have an impact on the highway programs of each State. I ask unanimous consent that the table showing the approximate portion of the $1 billion that will be released to each State be included in the RECORD at this point.

Interstate funds to be available to the States under the $1 billion apportionment include

(in millions)

Alabama	$20
Arizona	20
Arkansas	7.6
California	65
Colorado	20
Connecticut	29
Delaware	1.5
Florida	31
Georgia	24
Hawaii	10
Idaho	4.4
Illinois	49
Indiana	12
Iowa	10
Kansas	12
Kentucky	14
Louisiana	30
Maine	5.2
Maryland	38
Massachusetts	31
Michigan	35
Minnesota	23
Mississippi	8.9
Missouri	19
Montana	10
Nebraska	1.5
Nevada	4.9
New Hampshire	4.4
New Jersey	28
New Mexico	9.3
New York	38
North Carolina	$18

North Dakota	$1.5
Ohio	30
Oklahoma	7.2
Oregon	25
Pennsylvania	49
Rhode Island	8.9
South Carolina	8.2
South Dakota	3.6
Tennessee	13
Texas	45
Utah	11
Vermont	3.8
Virginia	43
Washington	36
West Virginia	23
Wisconsin	11
Wyoming	5.6
District of Columbia	24

HIGHWAY BUILDING FUNDS SHOULD BE USED NOW

Mr. RANDOLPH. Mr. President, in recent days we have seen signs of coming spring in the city of Washington. I look forward to this season, for it is always one of the loveliest times of the year in our National Capital City. The coming of spring, however, is more than just the arrival of the spring flowers. It is the season when our Nation's construction industry gears up to carry its work forward to another building season.

It is important for large projects to be started early in the year, so that construction can continue through the months of favorable weather.

Throughout the country, our highway building programs have followed this tradition of the spring start. Unfortunately, Mr. President, the Highway Departments of this country are uncertain as to whether they can award construction contracts this spring. The inability of the Congress last year to enact a highway bill prohibited the Secretary of Transportation from carrying out his usual practice of making funds available in advance of the starting of a new fiscal year. The situation is especially critical with regard to Interstate Highway Systems. One State, neighboring Virginia, has already exhausted all of its available Interstate funds. Several others have only small amounts of interstate funds available for obligation.

Mr. President, the measure before the Senate, Senate Concurrent Resolution 6, will alleviate this condition. It is, so far as I know, a noncontroversial proposal that would permit the Secretary of Transportation to apportion to the States $1 billion of the funds already authorized for interstate activities in fiscal year 1974. The distinguished Senator from Texas, the chairman of our Subcommittee on Transportation (Mr. BENTSEN), and Senator BAKER, active leader in this proposal, have explained why this resolution should have the affirmative vote of every Senator. To these remarks I add my own endorsement. The Interstate System is our largest roadbuilding activity. The impact of halting it would be severe and widespread. While the Congress works to produce a new general highway bill, there could be widespread unemployment in the highway construction industry and severe disruption of State construction schedules. At the same time, continuing inflation would push the ultimate cost of the system to new highs.

Mr. President, this resolution is important to every State in our country. I urge its prompt adoption.

The PRESIDING OFFICER. The concurrent resolution is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of Transportation shall apportion $1,000,000,000 of the sums authorized to be apportioned for fiscal year 1974 for immediate expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in Revised Table 5, House Report Numbered 92–1443.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED AMENDMENTS TO THE STANDARD FOR THE SURFACE FLAMMABILITY OF CARPET AND RUGS

A letter from the Acting Assistant Secretary for Science and Technology, Department of Commerce, transmitting, for the information of the Senate, proposed amendments to the Standard for the Surface Flammability of Small Carpets and Rugs, published in the Federal Register on June 2, 1972 (with accompanying papers); to the Committee on Commerce.

REPORT OF NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Vice President, Public and Government Affairs, National Railroad Passenger Corporation (AMTRAK), transmitting, pursuant to law, a report of that Corporation, for the month of January 1973 (with an accompanying report); to the Committee on Commerce.

PROPOSED LEGISLATION FROM DEPARTMENT OF STATE

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend Public Law 90–553, to create an International Center to make sites available for chanceries of foreign embassies in Washington and for a new headquarters for the Organization of American States (with an accompanying paper); to the Committee on Foreign Relations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of New Hampshire; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION MEMORIALIZING CONGRESS RELATIVE TO CHANGING THE HOLIDAY DATES OF MEMORIAL DAY AND VETERANS DAY

"Whereas, The citizens of the state of New Hampshire and the Veterans Organizations of the state in particular have a genuine awareness of their responsibility to preserve those American ideals supported by tradition; and

"Whereas, The traditional commemoration in honor of the many brave sons and daughters who so gallantly give and have given their lives in defense of our cherished freedom; and

"Whereas, The significance of the commemorating ceremonies in honor of these patriots has a personal meaning to those who annually pay their respect, as being based primarily on traditional historical considerations and not legislative manipulation for convenience; and

"Whereas, The people of the state of New Hampshire are reluctant to depart from such matters of well founded tradition which do not infringe upon the pursuit of life, liberty and happiness of all its people; and

"Whereas, The Senate and House of Representatives in General Court convened, have re-established as legal holidays in the state of New Hampshire the thirtieth day of May to be commemorated as Memorial Day and the eleventh day of November to be commemorated as Veterans Day;

"Now, Therefore Be It Resolved by the Senate, the House of Representatives concurring:

"That the Congress of the United States of America be memorialized to re-establish nationally the traditionally accepted May thirtieth as Memorial Day and November eleventh as Veterans Day in commemoration of the dead and the living heroes of our great nation; and be it further

"Resolved, That certified copies of this resolution be forwarded by the secretary of state to the members of the United States New Hampshire delegation, Clerk of the United States Senate, the Clerk of the United States House of Representatives, and to the President of the United States of America."

By Mr. McINTYRE:

A resolution adopted by the City Council of Portsmouth, N.H.; to the Committee on Armed Services.

THE NEED FOR A JUNIOR AND SENIOR HIGH SCHOOL FOR PEASE AIR FORCE BASE

Mr. McINTYRE. Mr. President, the city of Portsmouth, N.H., is doing an excellent job of educating the young people of that community and assisting in the education of the children of military personnel and Federal employees assigned to Pease Air Force Base as well as to the Portsmouth Naval Shipyard.

However, serious questions have been raised by the Administration about the future of the impacted aid program for education. If this program should be drastically cut it would place the city of Portsmouth in a very difficult situation.

Coupled with this is the fact that the children population at Pease Air Force Base appears to be growing, further straining the educational facilities in the locality.

Finally, just last week the Portsmouth School system suffered a severe blow when the Mary Dondero High School burned to the ground. This left the city without adequate facilities for 600 students.

In face of these problems, Portsmouth is seeking assistance. Specifically the city is requesting the construction of a junior and senior high school on Pease Air Force Base to help in relieving the pressures on the school system.

The City Council of Portsmouth has memorialized the New Hampshire delegation in regards to the needs at Pease Air Force Base.

Mr. President, I ask unanimous consent that the resolution from the City Council of Portsmouth be placed in the RECORD at this point and be referred to the appropriate committee.

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

RESOLUTION NO. 14

Resolution concerning schooling of military dependents:

To the New Hampshire Congressional Dele-

gation: the Honorable Norris Cotton, U.S. Senator; the Honorable Thomas J. McIntyre, U.S. Senator; the Honorable Louis C. Wyman, Member of Congress; the Honorable James C. Cleveland, Member of Congress:

Whereas, there is located in the City of Portsmouth, New Hampshire, Pease Air Force Base, a vital link in the Strategic Air Command Defense System; and,

Whereas, there are 5,980 members of the military and their families living on Pease Air Force Base; and,

Whereas, there are 2,003 military dependents attending Portsmouth schools who are associated with Pease Air Force Base; and,

Whereas, there presently exists in the City of Portsmouth a tremendous overcrowding in the Junior High School and the High School; and,

Whereas, the large number of military dependents contribute greatly to this overcrowding;

Now therefore, be it resolved by the City Council of the City of Portsmouth that you do everything in your power to have a new junior and senior high school built on Pease Air Force Base to take care of the military dependents.

By Mr. McINTYRE:

A concurrent resolution of the General Court of the State of New Hampshire; to the Committee on Finance.

SOCIAL SECURITY INCREASES AND WELFARE AND VETERANS PENSIONS' REDUCTIONS

Mr. McINTYRE. Mr. President, the people of New Hampshire are concerned about reductions in welfare assistance and veterans' pension reductions when social security benefits are increased.

I am cosponsoring legislation that will protect veterans and those on welfare from losing their benefits when social security benefits are raised.

A clear demonstration of the concern in New Hampshire about this problem is contained in a memorial to the Congress of the United States by the Senate and House of Representatives of the General Court of New Hampshire passed on February 27, 1973.

Mr. President, I ask unanimous consent that this resolution of the New Hampshire General Court be printed in the RECORD at this point and referred to the appropriate committee.

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

Senate Concurrent Resolution Memorializing the Congress of the United States to enact legislation which will grant the Social Security increase without having any welfare assistance or veteran's pension reduced.

Whereas, Social Security payments were increased effective as of October 1, 1972.

Whereas, there are social security recipients of New Hampshire who have been terminated from the donated food program and/or who have had their old age assistance grants or veteran's pension reduced as a result of receiving the social security increase.

Whereas, these particular recipients have thus had no actual increase in their economic status because of the reductions in their welfare assistance or veteran's pension.

Now therefore be it resolved, by the Senate of the General Court of New Hampshire, the House of Representatives concurring:

That the Congress of the United States is hereby memorialized to enact legislation which will grant this recent social security increase without having any welfare assistance or veteran's pension reduced because of such social security increase, and

Be it further resolved, that pending such congressional action all federal, state and local officials, in their respective official capacities, are urged to attempt to remedy administratively this unfortunate situation, and

Be it further resolved, that these recipients are urged to exercise their legal rights to rectify this situation, and

Be it further resolved, that the secretary of state be instructed to forward a copy of these resolutions to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, and to each member of the congressional delegation from New Hampshire.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, Mr. CHURCH, from the Committee on Foreign Relations, submitted a report entitled "International Convention on the Prevention and Punishment of the Crime of Genocide," Executive O, 81st Congress, 1st session, together with three Understandings and one Declaration, which was ordered to be printed (Exec. Rept. No. 93–5).

REFERRAL OF A NOMINATION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the nomination of Michael P. Balzano, Jr., of Virginia, to be Director of ACTION, be referred jointly to the Committee on Foreign Relations and the Committee on Labor and Public Welfare.

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. BAKER:

S. 1086. A bill to assure protection of public health and other living organisms from the adverse impact of the disposal of hazardous wastes, to authorize a research program with respect to hazardous waste disposal, and for other purposes. Referred to the Committee on Public Works.

By Mr. CURTIS (for himself, Mr. ALLEN, Mr. DOLE, and Mr. TALMADGE):

S. 1087. A bill to amend section 103 of the Internal Revenue Code of 1954. Referred to the Committee on Finance.

By Mr. MANSFIELD (for Mr. BAYH):

S. 1088. A bill to protect the public interest in fair and impartial execution of the antitrust laws of the United States, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 1089. A bill for the relief of Socorro Sanez-Manzano. Referred to the Committee on the Judiciary.

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

S. 1090. A bill to amend the Communications Act of 1934 with respect to recess appointments to the Board of Directors of the Corporation for Public Broadcasting and to extend certain authorizations for such Corporation and for certain construction grants for noncommercial educational television and radio broadcasting facilities. Referred to the Committee on Commerce.

By Mr. SCOTT of Pennsylvania:

S. 1091. A bill for the relief of Manuel Sicuan Uson and his wife, Nancy Santa Rosa Uson;

S. 1092. A bill for the relief of Salvatore di Bella, his wife, Providencia di Bella, and their children, Carmelo di Bella and Santo di Bella; and

S. 1093. A bill for the relief of Alfredo Giammatteo. Referred to the Committee on the Judiciary.

By Mr. SCOTT of Pennsylvania (for himself, Mr. MATHIAS, and Mr. STEVENSON):

S. 1094. A bill to improve the regulation of Federal election campaign activities. Referred to the Committee on Rules and Administration.

By Mr. SCOTT of Pennsylvania (for himself and Mr. MATHIAS):

S. 1095. A bill to amend the Communications Act of 1934 with respect to the application of the equal time provisions of section 315 to candidates for Federal elective office, and for other purposes. Referred to the Committee on Commerce.

S. 1096. A bill to provide for a campaign mail privilege for qualified candidates for Federal office. Referred to the Committee on Post Office and Civil Service.

S. 1097. A bill to amend the Internal Revenue Code of 1954 to provide that political contributions are not subject to the gift tax. Referred to the Committee on Finance.

By Mr. BIBLE (for himself, Mr. ABOUREZK, Mr. BEALL, Mr. BURDICK, Mr. CANNON, Mr. EAGLETON, Mr. EASTLAND, Mr. GURNEY, Mr. HOLLINGS, Mr. KENNEDY, Mr. McGOVERN, Mr. McINTYRE, Mr. MOSS, Mr. NELSON, Mr. PASTORE, Mr. RANDOLPH, Mr. SCOTT of Virginia, Mr. SPARKMAN, and Mr. WILLIAMS):

S. 1098. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business. Referred to the Committee in Finance.

By Mr. HUMPHREY:

S. 1099. A bill to establish a Federal-State Legislative Council. Referred to the Committee on Government Operations.

By Mr. McINTYRE (for himself, Mr. PASTORE, Mr. HRUSKA, Mr. FANNIN, and Mr. BAKER):

S. 1100. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide a comprehensive program of health care by strengthening the organization and delivery of health care nationwide and by making comprehensive health care insurance (including coverage for medical catastrophes) available to all Americans, and for other purposes. Referred to the Committee on Finance.

By Mr. HART (for himself and Mr. GRIFFIN):

S. 1101. A bill to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Michigan for potential additions to the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

By Mr. HART:

S. 1102. A bill to declare that certain federally owned land is held by the United States in trust for the Keweenaw Bay Indian Community and to make such lands parts of the reservation involved. Referred to the Committee on Interior and Insular Affairs.

S. 1103. A bill to provide for public financing of campaigns for nomination for election, or election, to the Congress of the United States. Referred to the Committee on Rules and Administration.

By Mr. HART (for himself, Mr. McGOVERN, Mr. CASE, Mr. MOSS, Mr. PACKWOOD, Mr. RIBICOFF, Mr. STAFFORD, Mr. PELL, Mr. HUMPHREY, Mr. CRANSTON, and Mr. HATHAWAY):

S. 1104. A bill to promote and protect the free flow of interstate commerce without unreasonable damage to the environment; to assure that activities which affect interstate commerce will not unreasonably injure en-

vironmental rights; to provide a right of action for relief for protection of the environment from unreasonable infringement by activities which affect interstate commerce and to establish the right of all citizens to the protection, preservation, and enhancement of the environment. Referred to the Committee on Commerce.

By Mr. PERCY (for himself and Mr. DOLE):

S. 1105. A bill to provide income tax incentives for the modification of certain buildings so as to remove architectural and transportational barriers to the handicapped and elderly. Referred to the Committee on Finance.

By Mr. PERCY:

S. 1106. A bill to amend the Federal Reports Act to avoid undue delays in the collection of information by Government agencies. Referred to the Committee on Government Operations.

By Mr. McGEE:

S. 1107. A bill to permit immediate retirement of certain Federal employees. Referred to the Committee on Post Office and Civil Service.

By Mr. MONDALE:

S. 1108. A bill to amend the Internal Revenue Code, in order to protect farm property from estate taxation based upon its valuation for nonfarm use. Referred to the Committee on Finance.

By Mr. MONDALE (for himself, Mr. BAYH, Mr. CRANSTON, Mr. EAGLETON, Mr. HART, Mr. HATHAWAY, Mr. MANSFIELD, Mr. McGEE, Mr. McGOVERN, Mr. Moss, and Mr. PROXMIRE:

S. 1109. A bill to amend the Internal Revenue Code of 1954 to provide that the designation of payments to the Presidential Election Campaign Fund be made on the front page of the taxpayer's income tax return form. Referred to the Committee on Finance.

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

S. 1110. A bill to provide for orderly trade in fresh fruits and vegetables, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. McCLURE:

S. 1111. A bill to quitclaim the interest of the United States to certain land in Bonner County, Idaho. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUDDLESTON:

S. 1112. A bill for the relief of Mukhtar M. Ali. Referred to the Committee on the Judiciary.

By Mr. CRANSTON (by request):

S. 1113. A bill to amend the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. EAGLETON:

S. 1114. A bill to authorize assistance for demonstration projects designed to develop reforms in the criminal justice system in the United States. Referred to the Committee on the Judiciary.

By Mr. COOK:

S. 1115. A bill to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs. Referred to the Committee on the Judiciary.

By Mr. HUGHES (for himself and Mr. CLARK):

S. 1116. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes. Referred to the Committee on Commerce.

By Mr. HARTKE:

S. 1117. A bill to amend the program of supplemental security income for the aged, blind, and disabled (established by title XVI of the Social Security Act) to provide for cost-of-living increases in the benefits provided thereunder. Referred to the Committee on Finance.

By Mr. PASTORE (for himself, Mr. PELL, Mr. AIKEN, and Mr. STAFFORD):

S. 1118. A bill to amend section 5034 of title 38, United States Code, to increase the number of nursing home beds in each State for war veterans in need of nursing home care. Referred to the Committee on Veterans' Affairs.

By Mr. MONTOYA (for himself and Mr. DOMENICI):

S. 1119. A bill to authorize the Secretary of the Interior to make water available for a minimum recreation pool in Elephant Butte Reservoir from the San Juan-Chama unit of the Colorado River storage project. Referred to the Committee on Interior and Insular Affairs.

By Mr. RIBICOFF:

S. 1120. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system. Referred to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. ABOUREZK, Mr. BEALL, Mr. CLARK, Mr. HATHAWAY, Mr. McINTYRE, Mr. MONDALE, and Mr. PELL):

S. 1121. A bill to amend the Federal Regulation of Lobbying Act, and for other purposes. Referred to the Committee on Government Operations.

By Mr. COOK:

S. 1122. A bill to encourage the movement in interstate and foreign commerce of recycled and recyclable materials and to reduce the quantities of solid waste materials in commerce which cannot be recycled or do not contain available recycled materials and for other purposes. Referred to the Committee on Commerce.

By Mr. MOSS:

S. 1123. A bill to amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. MONDALE (for himself, Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. HART, Mr. HUGHES, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. McGEE, Mr. McGOVERN, Mr. Moss, Mr. NELSON, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, and Mr. WILLIAMS):

S.J. Res. 71. A joint resolution to provide for a study and evaluation of the ethical, social, and legal implications of advances in biomedical research and technology. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAKER:

S. 1086. A bill to assure protection of public health and other living organisms from the adverse impact of the disposal of hazardous wastes, to authorize a research program with respect to hazardous waste disposal, and for other purposes. Referred to the Committee on Public Works.

Mr. BAKER. Mr. President, I am today introducing, for appropriate referral, legislation designated as the "Hazardous Waste Management Act of 1973."

This legislation was developed by the administration and was discussed by President Nixon when he submitted his environmental message to the Congress last month.

The primary feature of the bill is the creation, in section 5, of a new Federal regulatory procedure for controlling solid wastes that would cause "substantial damage to human health or to other living organisms." I am informed that the Environmental Protection Agency estimates that there are approximately 20 substances that would be so classified. They include products such as mercury, cadmium, and arsenic.

It should be noted that present law does not normally control such pollutants if disposed of on land. Such wastes would be controlled when discharged into a river or emitted as air pollutants. But if placed on land, they would normally go unregulated. Existing law merely calls for a Federal study of possible Federal disposal sites for especially hazardous materials.

This new legislation, in section 4, also authorizes the EPA to establish national standards and guidelines for enforcement by the States for other forms of hazardous solid wastes. As section 4 indicates, it is the view of the administration that the handling of solid wastes should rest primarily with local governments.

Other provisions of the bill establish civil penalties of up to $25,000 a day for violation of a hazardous waste procedure; authorize continued Federal research, including studies of freight rates affecting recycled materials; apply applicable standards to Federal agencies; permit citizen suits similar to those authorized by the Clean Air Act and the Federal Water Pollution Control Act; and authorize such sums as may be necessary to carry out the act.

This constructive legislative proposal from the administration will, I know, be evaluated with great care by the Committee on Public Works. While the Senate has earlier this session passed legislation that extends the existing Solid Waste Disposal Act for 1 year, it is essential that the committee initiate a broad evaluation of new initiatives for implementation later this year or early next. There will be other proposals for the Senate to consider, including some that I may put forward. There may also be a need to extend further the authorization for the existing Solid Waste Disposal Act, which is not amended by this bill, in order to continue the significant efforts now underway.

Mr. President, this proposal from the administration follows a period of careful review by the EPA, including the recent preparation of a major report on recycling, required by section 205 of existing law. This 205 report to the Congress is a most thorough and instructive one—delving deeply into the many impediments to more effective resource recovery.

Mr. President, I ask unanimous consent that a copy of the bill, a section-by-section analysis of the bill, and the section 205 study be printed at this point in the RECORD.

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

S. 1086

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

SECTION 1. This Act may be cited as the "Hazardous Waste Management Act of 1973."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds—

(1) that continuing technological progress, improvement in the methods of manufacture, and abatement of air and water pollution has resulted in an ever-mounting increase of hazardous wastes;

(2) that improper land disposal and other management practices of solid, liquid and semi-solid hazardous wastes which are a part of interstate commerce are resulting in adverse impact on health and other living organisms;

(3) that the knowledge and technology necessary for alleviating adverse health, environmental and aesthetic impacts associated with current waste management and disposal practices are generally available at costs within the financial capacity of those who generate such wastes, even though this knowledge and technology are not widely utilized:

(4) that private industry has demonstrated its capacity and willingness to develop, finance, construct and operate facilities and to perform other activities for the adequate disposal of hazardous and other waste materials;

(5) that while the collection and disposal of wastes should continue to be a responsibility of private individuals and organizations and the concern of State, regional and local agencies, the problems of hazardous waste disposal as set forth above and as an intrinsic part of interstate commerce have become a matter national in scope and in concern, and necessitate Federal action through regulation of the treatment and the disposal of the most hazardous of these wastes, and through technical and other assistance in the application of new and improved methods and processes to provide for proper waste disposal practices and reductions in the amount of waste and unsalvageable materials.

(b) The purpose of this Act therefore are—

(1) to protect public health and other living organisms through Federal regulation in the treatment and disposal of certain hazardous wastes;

(2) to provide for the promulgation of Federal guidelines for State regulation of the treatment and disposal of hazardous wastes not subject to Federal regulation;

(3) to provide technical and other assistance to public and private institutions in the application of efficient and effective waste management systems;

(4) to promote a national research program relating to the health and other effects of hazardous wastes and the prevention of adverse impacts relating to health and other living organisms.

DEFINITIONS

SEC. 3. When used in this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico.

(3) The term "waste" means useless, unwanted, or discarded solid, semi-solid or liquid materials.

(4) The term "hazardous waste" means any waste or combination of wastes which pose a substantial present or potential hazard to human health or living organisms because such wastes are nondegradable or persistent in nature or because they can be biologically magnified, or because they can be lethal, or because they may otherwise cause or tend to cause detrimental cumulative effects.

(5) The term "secondary material" means a material that is or can be utilized in place of a primary or raw material in manufacturing a product.

(6) The term "generation" means the act or process of producing waste materials.

(7) The term "storage" means the interim containment of waste after generation and prior to ultimate disposal. Containment for more than two years shall be considered disposal.

(8) The term "transport" means the movement of wastes from the point of generation to any intermediate transfer points, and finally to the point of ultimate disposal.

(9) The term "treatment" means any activity or processing designed to change the physical form or chemical composition of waste so as to render such materials nonhazardous.

(10) The term "disposal of waste" means the discharge, deposit, or injection into subsurface strata or excavations or the ultimate disposition onto the land of any waste.

(11) The term "disposal site" means the location where any final deposition of waste materials occurs.

(12) The term "treatment facility" means a location at which waste is subjected to treatment and may include a facility where waste has been generated.

(13) The term "person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, State, municipality, or any legal representatives agent or assigns.

(14) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law with responsibility for the planning or administration of waste management, or an Indian tribe or an authorized Indian tribal organization.

(15) The term "waste management" means the systematic control of the generation, storage, transport, treatment, recycling, recovery, or disposal of waste materials.

STANDARDS AND GUIDELINES FOR STATE REGULATION

SEC. 4. (a) Within 18 months after the date of enactment of this Act, and from time to time thereafter, the Administrator pursuant to this Section and after consultation with representatives of appropriate Federal agencies shall by regulation—

(1) identify hazardous wastes;

(2) establish standards for treatment and disposal of such wastes; and

(3) establish guidelines for State programs for implementing such standards.

(b) In identifying a waste as hazardous, pursuant to this section, the Administrator shall specify quantity, concentration and the physical, chemical, or biological properties of such waste, taking into account means of disposal, disposal sites, and available disposal practices.

(c) The standards established under this Section shall include minimum standards of performance required to protect human health and other living organisms and minimum acceptable criteria as to characteristics and conditions of disposal sites and operating methods, techniques, and practices of hazardous wastes disposal taking into account the nature of the hazardous waste to be disposed. Such standards shall include but not be limited to requirements that any persons generating waste must (1) appropriately label all containers used for on-site storage or for transport of hazardous waste; (2) follow appropriate procedures for treating hazardous waste on-site; (3) transport all hazardous waste intended for off-site disposal to a hazardous waste disposal facility for which a permit has been issued. In establishing such standards the Administrator shall take into account the economic and social costs and benefits of achieving such standards.

(d) The guidelines established under paragraph (a)(3) of this Section shall provide that:

(1) With respect to disposal sites for hazardous wastes, the State program requires that any person obtain from the State a permit to operate such site;

(2) Such permits require compliance with the minimum standards of performance acceptable site criteria set by the guidelines;

(3) The State have such regulatory and other authorities as may be necessary to carry out the purpose of this Act, including, but not limited to, the authority to inspect disposal sites and records, and to judicially enforce compliance with the requirements of an approved program against any person.

(e) Within 18 months of the promulgation of final regulations under this Act, each State shall submit to the Administrator evidence, in such form as he shall require, that the State has established a State program which meets the requirement of the guidelines of paragraph (a)(3) of this Section. If a State fails to submit such evidence, in whole or in part, the Administrator shall publish notice of such failure in the *Federal Register* and provide such further notification, in such form as he considers appropriate, to inform the public in such State of such failure.

FEDERAL REGULATION

SEC. 5. (a) Within 18 months after the date of enactment of this Act and from time to time thereafter, the Administrator after consultation with representatives of appropriate Federal agencies may with respect to those hazardous wastes identified pursuant to subsection (a)(1) of Section 4 determine in regulations those of such wastes which because of their quantity or concentration, or because of their chemical characteristics, could if allowed to be dispersed into the environment result in, or contribute to, the loss of human life or substantial damage to human health or to other living organisms.

(b) The Administrator may promulgate regulations establishing Federal standards and procedures for the treatment and disposal of such wastes. Such Federal standards and procedures shall be designed to prevent damage to human health or living organisms from exposure to such wastes identified pursuant to subsection (a) and may include—

(1) with respect to hazardous waste disposal sites—

(A) minimum requirements as to the characteristics and conditions of such sites,

(B) minimum standards of performance for the operation and maintenance of such sites, and

(C) recommendations as to specific design and construction criteria for such sites; and

(2) with respect to hazardous waste treatment facilities—

(A) minimum standards of performance for the operation and maintenance, and

(B) recommendations based on available technology as to appropriate methods, techniques, or practices for the treatment of specific wastes.

(c) The Administrator may issue a permit for the operation of a hazardous waste disposal site or treatment facility if, after a review of the design, construction, and proposed operation of such site or facility, he determines that such operation will meet the requirements and standards promulgated pursuant to subsection (b).

(d) Within 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations establishing requirements for generators of hazardous wastes subject to regulation under this section to—

(1) Maintain records indicating the quantities of hazardous waste generated and the disposition thereof;

(2) Package hazardous waste in such a manner so as to protect human health and other living organisms, and label such packaging so as to identify accurately such wastes.

(3) Treat or dispose of all hazardous waste at a hazardous waste disposal site or treat-

ment facility for which a permit has been issued under this Act.

(4) Handle and store all hazardous waste in such a manner so as not to pose a threat to human health or other living organisms.

(5) Submit reports to the Administrator, as such times as the Administrator deems necessary, setting out—

(A) the quantities of hazardous waste subject to Federal regulation under this subsection that he has generated;

(B) the nature and quantity of any other waste which he has generated which he has reason to believe may have a substantial adverse effect on human health and other living organisms; and

(C) the disposition of all waste included in categories (A) and (B).

(e) The Administrator may prescribe regulations requiring any person who stores, treats, disposes of, or otherwise handles hazardous wastes subject to regulation under this section to maintain such records with respect to their operations as the Administrator determines are necessary for the effective enforcement of this Act.

(f) The Administrator is authorized to enter into cooperative agreements with States to delegate to any State which meets such minimum requirements as the Administrator may establish by regulation the authority to enforce this section against any person.

FEDERAL ENFORCEMENT

SEC. 6. (a) Whenever on the basis of any information the Administrator determines that any person is in violation of requirements under Section 5 or of any standard under Section 4(a)(2) under this Act, the Administrator may give notice to the violator of his failure to comply with such requirements or may request the Attorney General to commence a civil action in the appropriate United States District Court for appropriate relief, including temporary or permanent injunctive relief. If such violation extends beyond the thirtieth day after the Administrator's notification, the Administrator may issue an order requiring compliance within a specified time period or the Administrator may request the Attorney General to commence a civil action in the United States District Court in the District in which the violation occurred for appropriate relief, including a temporary or permanent injunction. *Provided* That, in the case of a violation of any standard under section 4(a)(2) where such violation occurs in a State which has submitted the evidence required under Section 4(e), the Administrator shall give notice to the State in which such violation has occurred 30 days prior to issuing an order or requesting the Attorney General to commence a civil action. If such violator fails to take corrective action within the time specified in the order, he shall be liable for a civil penalty of not more than $25,000 for each day of continued non-compliance. The Administrator may suspend or revoke any permit issued to the violator.

(b) Any order or any suspension or revocation of a permit shall become final unless, no later than 30 days after the order or notice of the suspension or revocation is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this Section the Administrator may issue subpoenas for the attendance and tesitmony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(c) Any order issued under this Section shall state with reasonable specificity the nature of the violation and specify a time for compliance and assess a penalty, if any, which the Administrator determines is a reasonable period and penalty taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

(d) Any person who knowingly violates any requirement of this Act or commits any prohibited act shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed one year, or both.

RESEARCH, DEVELOPMENT, INVESTIGATIONS, TECHNICAL ASSISTANCE AND OTHER ACTIVITIES

SEC. 7. (a) The Administrator shall conduct, encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, development, investigations, experiments, surveys, and studies relating to—

(1) any adverse health and welfare effects on the release into the environment of material present in waste, and methods to eliminate such effects;

(2) the operation or financing of waste management programs;

(3) the development and application of new and improved methods of collecting and disposing of waste and processing and recovering materials and energy from wastes; and

(4) the reduction of waste generation and the recovery of secondary materials and energy from solid, liquid, and semi-solid wastes.

(b) In carrying out the provisions of the preceding subsection, the Administrator is authorized to—

(1) collect and make available, through publication and other appropriate means, the results of, and other information pertaining to, such research and other activities, including appropriate recommendations in connection therewith;

(2) cooperate with public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and the conduct of such research and other activities; and

(3) make grants-in-aid to and contract with public or private agencies and institutions and individuals for research, surveys, development, and public education. Contracts may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) The Interstate Commerce Commission, the Federal Maritime Commission, and the Office of Oil and Gas in the Department of the Interior, in consultation with the Environmental Protection Agency and with other Federal agencies as appropriate, shall conduct within twelve months of the date of enactment of this Act and submit to Congress, a thorough and complete study of rate setting practices with regard to the carriage of secondary materials by rail and ocean carriers. Such study shall include a comparison of such practices with rate setting practices with regard to other materials and shall examine the extent to which, if at all, there is discrimination against secondary materials.

INSPECTIONS

SEC. 8. (a) For the purpose of developing or assisting in the development of any regulation or enforcing the provisions of this Act, any person who stores, treats, transports, disposes of, or otherwise handles hazardous wastes shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy all records relating to such wastes.

(b) For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this Act, officers or employees duly designated by the Administrator are authorized—

(1) to enter at reasonable times, any establishment or other place maintained by any person where hazardous wastes are stored, treated, or disposed of;

(2) to inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes. Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment or other place where hazardous wastes are stored, treated, or disposed of appropriate credentials and a written statement as to the reason for the inspection. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(c) Any records, reports, or information obtained from any person under this subsection shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, to which the Administrator has access under this section if made public, would divulge information entitled to protection under section 1905 of Title 18 of the United States Code, the Administrator shall consider such information or particular portion thereof confidential in accordance within the purposes of that section.

ENCOURAGEMENT OF INTERSTATE AND INTERLOCAL COOPERATION

SEC. 9. The Administrator shall encourage cooperative activities by the States and local governments in connection with waste disposal programs, encourage, where practicable, interstate, interlocal, and regional planning for, and the conduct of, interstate, interlocal, and regional hazardous waste disposal programs; and encourage the enactment of improved and, so far as practicable, uniform State and local laws governing waste disposal.

IMMINENT HAZARD

SEC. 10. (a) An imminent hazard shall be considered to exist when the Administrator has reason to believe that handling or storage of a hazardous waste presents an imminent and substantial danger to human health or other living organisms the continued operation of a disposal site will result in such danger when a State or local authority has not acted to eliminate such risk.

(b) If an imminent hazard exists, the Administrator may request the Attorney General to petition the district court of the United States in the district where such hazard exists, to order any disposal site operator or other person having custody of such waste to take such action as is necessary to eliminate the imminent hazard, including, but not limited to, permanent or temporary cessation of operation of a disposal site, or such other remedial measures as the court deems appropriate.

PROHIBITED ACTS

SEC. 11. The following acts and the causing thereof are prohibited and shall be subject to enforcement in accordance with the provisions of subsection 6(d) of this Act—

(a) Operating any disposal site for hazardous waste identified pursuant to Section 5 without having obtained an operating permit pursuant to such Section.

(b) Disposing of hazardous waste identified pursuant to section 5 in a manner not in compliance with requirements under section 5.

(c) Failure to comply with the requirements of section 5 in labeling containers used for the storage, transport, or disposal of hazardous waste.

(d) Failure to comply with (1) the conditions of any Federal permit issued under this Act, (2) any regulation promulgated by the Administrator pursuant to section 4(a)(2) or section 5 of this Act, or (3) any order issued by the Administrator pursuant to this Act.

APPLICATION OF STANDARDS TO FEDERAL AGENCIES

SEC. 12. (a) Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity which generates, or which may generate, wastes shall insure compliance with such standards pursuant to subsections 4(a)(2), 5(a), and 5(c) as may be established by the Administrator for the treatment and disposal of such wastes.

(b) The President or his designee may exempt any facility or activity of any department, agency, or instrumentality in the executive branch from compliance with guidelines established under section 4 if he determines it to be in the paramount interest of the United States to do so. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's or his designee's making of a new determination. The Administrator shall ascertain the exemptions granted under this subsection and shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year.

(c) Within 18 months after enactment of this Act and from time to time thereafter, the Administrator, in consultation with other appropriate Federal agencies, shall identify products which can utilize significant quantities of secondary materials and shall issue guidelines with respect to the inclusion of such secondary materials to the maximum extent practicable in products procured by the Federal Government.

(d) In any proceeding initiated before the Interstate Commerce Commission or the Federal Maritime Commission after the enactment of this Act where a determination is made by such Commission as to any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers, a specific finding by the Commission will be required that such rate, fare or charge does not or will not cause discrimination against secondary materials.

CITIZEN SUITS

SEC. 13. (a) Except as provided in subsection (b) any person may commence a civil action for injunctive relief on his own behalf—

(1) against any person who is alleged to be in violation of any regulation promulgated or order issued under this Act;

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred and any action brought under paragraph (a)(2) of this subsection shall be brought in the district court of the District of Columbia. The district courts shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties, to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

(B) if the Administrator or State has caused to be commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with requirements of this Act or order issued hereunder;

(2) under subsection (a)(2) prior to sixty days after plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(3) In such action under this section, if the United States is not a party, the Attorney General may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any regulation or to seek any other relief (including relief against the Administrator or a State agency).

STATE AUTHORITY

SEC. 14. (a) If the Administrator has promulgated regulations under Section 5 no State or municipality may without the approval of the Administrator impose more stringent requirements than those imposed under the provisions of Section 5 on the transport, treatment, or disposal of hazardous wastes.

(b) No State or municipality shall impose, on wastes originating in other States or municipalities, requirements respecting the transport of such wastes into or disposal within its jurisidction which are more stringent than those requirements applicable to wastes originating within such receiving States and municipalities.

AUTHORIZATION AND APPROPRIATION

SEC. 15. There is hereby authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary for the purposes and administration of this Act.

JUDICIAL REVIEW

SEC. 16. (a) A petition for review of action of the Administrator in promulgating any regulation pursuant to Sections 4 or 5 shall be filed in the United States Court of Appeals for the District of Columbia. Any person who will be adversely affected by a final order or other final determination issued under Section 6 may file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order or determination. Any such petition shall be filed within 30 days from the date of such action or order, or after such date if such petition is based solely on grounds arising after such 30th day.

(b) Action of the Administrator with respect to which review could have been obtained under subsection (a) shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(c) In any judicial proceeding in which review is sought of an action under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

RELATIONSHIP TO OTHER LAWS

SEC. 17. (a) This Act shall not apply to—

(1) Any source material, special nuclear material, or byproduct material subject to regulation or control pursuant to the Atomic Energy Act of 1954, as amended;

(2) lethal chemicals subject to regulation pursuant to 50 U.S.C. 1511, et seq., as amended.

(b) This Act shall not be construed to relieve any person from any present or future requirement arising from any other Federal law.

SECTION-BY-SECTION ANALYSIS: HAZARDOUS WASTE MANAGEMENT ACT OF 1973

Section 1—short title. The proposal is intended to replace the Toxic Waste Disposal Control Act proposed by the President in his 1972 Environmental Program and is intended to supercede the Solid Waste Disposal Act, as amended.

Section 2—*Findings and Purpose*—Congressional findings and public policy reasons for this Bill. The emphasis is on the protection of the public and other living organisms through State regulation of the treatment and disposal of hazardous wastes in general, through Federal regulation of the most hazardous forms of waste, and through research, development and similar activities relating to the health and other effects of hazardous waste.

Section 3—*Definitions*—Defines various terms used in the bill.

Section 4—*Standards and Guidelines for State Regulation*—This Section establishes a mechanism whereby the States are basically responsible for the regulation of hazardous wastes. The Administrator will identify hazardous wastes, establish standards for treatment and disposal of such wastes and establish guidelines for State programs for implementing the standards. Within 18 months of the promulgation of these standards and guidelines States are to submit evidence to the Administrator that they have established a State program which meets the requirement of the guidelines and are in a position to enforce the standards the Administrator has established. If the State fails to submit such evidence, the Administrator shall publish notice of such failure in the Federal Register and also shall provide notice of the failure to the public.

Section 5—*Federal Regulation*—Authorizes Federal regulation of the most hazardous wastes. Federal regulations will be promulgated to regulate both disposal sites and generators of such wastes. The regulations shall provide for issuance of permits for operation of waste disposal sites for these wastes and for standards dealing with the construction and operation of such sites. Generators of these hazardous wastes would be required to maintain records, package and label hazardous wastes in such a manner as to protect human health and other living organisms, submit certain reports to the Administrator, insure that hazardous wastes are either disposed of on-site in accordance with Federal standards or transferred to a disposal facility having a permit, and insure that hazardous wastes are held and stored in such a manner as not to pose a threat to human health or other living organisms.

Section 6—*Federal Enforcement*—In the case of a violation of any requirement pertaining to hazardous wastes subject to Fed-

eral regulation under the previous section, the Administrator is authorized by this Section to either give notice to the violator of his failure to comply or else request the Attorney General to commence immediately a civil action. If notification is given, and the violation extends beyond the thirtieth day after such notification, the Administrator may issue an order requiring compliance or may at that point request the Attorney General to commence an action. The Administrator is also given the same authority to proceed against violators of the standards of Section 4, provided he gives 30 days notice to the State if the State is one that has submitted evidence of having a regulatory program.

Section 7—*Research, Development, Investigations, Technical Assistance of Activities*—The Administrator is authorized to himself conduct, or to assist others to conduct, research and development, surveys and studies, and experiments relating to adverse effects on health and welfare of waste materials, operating and financing of waste management programs, production of waste generation and the recovery of secondary materials and energy from wastes, and development and application of new improved methods of collecting and disposing of wastes. The Administrator is authorized to carry out these provisions by collecting and making available information, cooperating with various agencies in the conduct of such research and other activities, and making grants to and contracting with various entities for such research and development. The Section also mandates the Interstate Commerce Commission, the Federal Maritime Commission, and the Office of Oil and Gas to do a study of rate-setting practices with regard to the carriage of secondary materials.

Section 8—*Inspections*—Any person who stores, treats, transports, disposes of, or otherwise handles hazardous wastes has to make records relating to such wastes available to the Administrator or the State. The Administrator's designates are authorized to enter and to inspect establishment or places where hazardous wastes are stored, and to obtain samples of wastes, such activities to be conducted at reasonable times and to be concluded and treated with reasonable promptness. Protection of confidential information is provided for the persons subject to this section.

Section 9—*Encouragement of Interstate and Interlocal Cooperation*—Requires the Administrator to encourage cooperative activities by the State and local governments in connection with waste disposal programs.

Section 10—*Imminent Hazards*—If an imminent hazard exists so that handling or storage of a hazardous waste or the continued operation of the disposal site will result in imminent and substantial danger to human health, the Administrator may request the Attorney General to take appropriate legal action to eliminate the hazard.

Section 11—*Prohibited Acts*—Certain acts or the causing thereof are prohibited, specifically—operating a disposal site subject to Federal regulation without having obtained the appropriate operating permit, disposing of hazardous wastes subject to Federal regulations in a manner not in compliance with the Federal requirements established under Section 5, failure to comply with the requirements of section 5 in labeling containers, and failure to comply with conditions of a Federal permit, with any regulations promulgated by the Administrator or with an order issued by him.

Section 12—*Guidelines for Federal Agencies*—The Administrator, in consultation with appropriate Federal agencies, shall identify products which can utilize significant quantities of secondary materials and issue guidelines with respect to inclusion of such materials to the maximum extent practicable in products procured by the Federal government. Federal agencies shall be required to be in compliance with standards and guidelines established by the Administrator for the treatment and disposal of wastes. The section also provides that in Interstate Commerce Commission and the Federal Maritime proceedings relating to fares or rates to be charged by any common carrier, a fining must be made that such rate or fare does not cause discrimination against secondary materials.

Section 13—*Citizen Suits*—Any person may commence a civil action against any person who is in violation of the Act or against the Administrator if he fails to perform a nondescretionary action.

Section 14—*State Authority*—No State may impose more stringent requirements than those imposed by the Administrator under the Federal regulatory program on the transport, treatment, or disposal of hazardous wastes. No State or municipality may impose "non-importation" laws.

Section 15—*Authorizations and Appropriations*—Such sums as may be necessary for the purposes and administration of this Act are authorized to be appropriated.

Section 16—*Judicial Review*—Petition for review of the actions of the Administrator in promulgating regulations is to be filed in the United States Court of Appeals for the District of Columbia and any person who will be adversely affected by a final order under Section 16 may file a petition for judicial review in the United States Court of Appeals where such person resides or has principal place of business. Such petitions must be filed within 30 days from the date of the action in the order.

Section 17—*Relationship to Other Laws*—The Act does not apply to nuclear material subject to regulation or control under the Atomic Energy Act or to certain lethal chemicals regulated under other law. The Act would not relieve persons from compliance with any other Federal law.

REPORT TO CONGRESS ON RESOURCE RECOVERY

(NOTE.—Figures and tables referred to are not printed in the RECORD.)

PREFACE

Section 205 of the Solid Waste Disposal Act (P.L. 89-272) as amended requires that the U.S. Environmental Protection Agency (EPA) undertake an investigation and study of resource recovery. This document represents EPA's Report to the President and the Congress summarizing the Agency's investigations to date and reporting the manner in which the Congressional mandate is being carried out.

The findings of this report are based on a number of contractual efforts and analyses by the Agency staff carried out since the passage of the Resource Recovery Act. Extremely valuable assistance in these investigations has been provided to EPA by The Council on Environmental Quality.

The report is organized into a summary, four major sections, and an appendix. The first section discusses the problem to which resource recovery is the potential solution. Next, key findings related to resource recovery are presented. A section outlining major options follows. The report concludes with a discussion of EPA's program activities in resource recovery.

The appendix presents summaries of information about the status of resource recovery by major materials categories and a listing of existing resource recovery facilities.

SUMMARY

This report represents an exploration of resource recovery as a method of solid waste management and resource conservation. Information developed over the past several years is summarized and the many questions surrounding the complex subject of resource recovery are discussed.

The emphasis of the report is on the recovery of materials and energy from mixed municipal wastes and other "post-consumer" wastes that are discarded outside the normal waste collection channels. Although only 5% of the total national solid waste load, these wastes tend to have the most frequent population impact in that they occur in the nation's urbanized places. More than 50% of the total waste load comes from agriculture and is usually returned to the soil. More than 40% of the total burden is mining waste, which occurs in the hinterland.

Nearly all major materials are recovered to some extent by recycling. Most recovered materials are derived from industrial fabrication wastes. Post-consumer wastes are also recovered to some extent (waste paper, old automobiles); post-consumer recycling has grown in an absolute sense. However, the proportion of the nation's materials requirements satisfied from recycling materials has remained constant or has declined in most instances.

The level of recycling depends almost entirely on economics. Recycling takes place to the extent that it is the most efficient use of resources. In the absence of artificial economic subsidies for "natural" or "virgin" materials more secondary or recycled materials would be used. The economics of recycling are also influenced by apparently inequitable freight rates—both ocean and rail—which make the transportation of secondary materials relatively more costly than the movement of virgin resources.

There has been sufficient technology development to allow extraction of materials and energy from mixed municipal wastes. However, few full scale recovery plants exist. The Environmental Protection Agency is funding the demonstration of the most significiant conceptual alternatives.

The costs of recovery plants are estimated to be relatively high, making recovery by technological means attractive only in areas where high disposal costs prevail and local markets for the waste materials exist. There is evidence that recovery by separate collection is not only feasible but economically attractive provided that the collection makes use of an existing transport system and markets for the collected materials exist.

Preliminary research and analysis indicates that, when compared with virgin materials extraction and processing, resource recovery results in lower quantities of atmospheric emissions, waterborne wastes, mining and solid wastes, and energy consumption. There is substantial disagreement among experts about the extent of such differential effects over time, particularly as strengthened environmental constraints on use of both virgin and seconday materials begin to narrow the differentials that now exist.

Recycling should become more economical relative to other solid waste disposal options during the next several years. Energy costs are rising, making energy recovery more attractive and more economical. As pressures increase to bring about environmentally sound waste disposal, the costs of disposal will rise and recovery will become more attractive as an alternative. Finally, to the extent that air and water pollution control regulations are intensified, the incentives of industry for using secondary materials will improve.

Other incentives for recycling also exist under existing Federal policies. The General Services Administration does not purchase paper unless it contains a specified amount of recycled paper. The military services are exploring procurement policies to reduce waste quantities or to mandate inclusion of secondary materials. The Treasury Department has determined that tax exempt industrial revenue bonds may finance the construction of recycling facilities built by private concerns to recycle their own wastes.

Additional Federal incentives for recycling are not considered desirable at this time. Studies to date indicate that the effectiveness of specific incentive mechanisms that can be formulated is extremely difficult to predict. New tax incentives may well distort the economics of resource utilization much as preferential treatment of virgin materials distort them today.

Trere is an obvious need for further exploration of the complex issues of materials utilization in the Nation in the context of total resource utilization. Resource recovery is an important part—but only a part—of the larger picture. Before additional Federal policies are developed—aimed possibly at overcoming institutional and market imperfections in some areas—a better understanding of the complex materials and energy situation must be developed.

SECTION 1—THE PROBLEM

U.S. Materials-Use Pattern. Resource recovery in its varied aspects must be seen as part of a much larger economic structure—the total materials and energy use patterns of the nation. Today the recovery of waste materials supplies a very small part of the total material and energy requirements of the U.S. population, and while both population and materials consumption are increasing, the use of materials from waste sources is declining relative to overall consumption.

In 1971, the U.S. economy used an estimated 5.8 billion tons of materials for its total activity, equivalent to 28 tons for each man, woman and child. Of this total approximately 10 percent comes from agriculture, forestry, fishing, and animal husbandry (food and forest products); 34 percent is represented by fuels; and 55 percent comes from the minerals industries in the form of metals, construction materials, and other minerals.

Materials use is growing at the rate of 4 percent to 5 percent yearly. Per capita consumption was 22 tons in 1965, 24.7 tons in 1968, and 28 tons in 1971.[2] During the same period, population grew at a rate of 1.3 percent annually.

A high rate of materials and energy consumption means a high rate of waste generation. Approximately 10 to 15 percent of annual inputs to the economy represent accumulation of materials in use (in structures, plant and equipment, etc.); the rest of the tonnage is used consumptively with residues discharged to the land, water, and air, or is used to replace obsolete products and structures which in turn become waste.[3]

Nearly all of the materials and energy required in the U.S. comes from virgin or natural resources. The tonnage of fabrication and obsolete wastes recycled is approximately 55 to 60 million tons,[4] equivalent to less than 1 percent of total minerals tonnage required overall by the nation.

If we disregard food and energy substances the estimated 1971 demand for nonfood, nonenergy materials was 3.6 billion tons, and waste recovery satisfied 1.5 to 1.7 percent of the total requirement.

Environmental Consequences of Materials Use. Any form of materials use has environmental consequences. Materials resources must be extracted, purified, upgraded, processed, and fabricated into products; in addition, there are transportation steps between most of these steps.

At every point solid, waterborne, and airborne wastes are generated and either enter the environment or are removed from processing steps at some expense.

The production of 1,000 tons of steel, for instance, results in 2,800 tons of mine wastes, 121 tons of air pollutants, and 970 tons of solid wastes.[5] Similar waste flows are associated with every materials flow, although, of course, the magnitudes vary depending on the types of materials obtained. The sheer growth in materials consumption per capita indicates that more pollution and waste is generated per citizen today than was generated in years past.

As will be discussed, reports at this time indicate that the amounts of air pollution, water pollution and waste that result from production systems that use recycled wastes are lower than the effluents from production systems that rely on virgin resources. Thus, any decrease in resource recovery relative to total consumption means an increase in the quantity of residuals generated.

Solid Waste Generation. Ever increasing per capita materials consumption necessarily means that more solid waste is generated. This can be illustrated graphically by trends in packaging consumption since packaging is a short-lived product category which becomes waste immediately after use.

Per capita packaging consumption in pounds per capita) has been increasing steadily as shown below.[6]

1958	404
1960	425
1962	450
1964	475
1966	525
1970	577

The situation in packaging is merely an illustration of a general phenomenon of waste generation resulting from a materials consumption rate which grows faster than population.

The total quantity of waste generated in 1971 is estimated to have been 4.45 billion tons, up nearly 1 billion tons from 1967. The make-up of this waste is shown below:

	Million Tons
Municipal* [7]	230
Industrial [8]	140
Mineral wastes [9]	1,700
Animal wastes [10]	1,740
Crop wastes [10]	640
Total	4,450

* Includes residential, commercial, demolition, street and alley sweepings, and miscellaneous (e.g., sludge disposal).

The 230 million ton municipal waste load plus that portion of industrial waste occurring in large metroplitan areas constitute what is normally referred to as the "solid waste problem" in popular discussion.

One reason for the growing solid waste burden is that resource recovery has declined relative to total materials consumption. A second reason is the substitution of materials-intensive practices (practices which result in consumption of large amounts of raw materials) for less materials demanding practices, e.g., one-way containers for returnable bottles, paper towels for cloth towels, and disposable one-time use products of all sorts—in the home, the office, the hospital, etc.—for products designed for reuse.

The resulting solid waste load is especially burdensome in urban areas because of greater population concentrations and because disposal in urban areas is particularly difficult. The urban population, for example, has grown from 64 percent of the total population in 1950 to 74 percent in 1970, thereby increasing the quantity of solid waste in urban areas by a substantial percentage. Additionally, urban populations generate more waste than nonurban residents—approximately 20 percent more per capita.[11]

Disposal in urban areas is an especially difficult problem because in the city, waste disposal is, at the same time, an environmental, economic, and political problem. Waste collection is labor intensive, labor costs are rising rapidly, and the productivity of most municipal waste collection systems is low. In many urban areas, land suitable for waste disposal has disappeared or is rapidly being used up. Movement of the waste across the boundaries of the political jurisdiction where it occurs is difficult and sometimes impossible. As cities are required to travel longer distances to dispose of their waste or alternatively are forced to process them to achieve volume reduction, the costs of waste management are increased. To eliminate potential air and water pollution from landfills and incinerators, the waste processing facilities must be properly designed, located, and operated, and must include proper pollution control devices. This degree of control is technologically possible but often costly, particularly in the case of incineration.

Given these circumstances, many cities increasingly are viewing resource recovery as both an environmentally and economically desirable alternative to disposal. Unfortunately, this option is most often not available because demand for materials from wastes is nonexistent or severely limited.

The Recovery Rate. Nearly all major materials are recovered to some extent by recycling. The recovery rate varies from nearly 100 percent for solid lead (50 percent for all lead),* 50 percent for copper, 31 percent for iron and steel, and 19 percent for paper and board, to 4.2 percent of glass (Table 1). The percentages refer to the proportion of total consumption of the materials satisfied from both wastes recovered in fabrication steps in industry and wastes recovered from obsolete products like junk automobiles and old newspapers.

Consumption of major materials—iron and steel, paper, nonferrous metals, glass, textiles, and rubber was taking place at a rate of 190 million tons in the 1967–1968 period. During this period the total recycling tonnage of the same materials was 48 million tons, equivalent to 25 percent of consumption of these materials.

Historical data in this aggregated form are not available for all materials. In general, however, for most materials, the portion of total consumption of that material derived from waste sources has been declining. Consumption of these waste materials has generally not kept pace with total consumption.

Paper waste consumption as a percent of total fiber consumption has declined from a rate of 23.1 percent in 1960 to 17.8 percent in 1969.[12]

Iron and steel scrap consumption as a percent of total metallics consumption has declined slightly overall from the 1959–1963 to the 1964–1968 period, from 50.3 to 49.9 percent. Purchased scrap consumption,* representing the recycling of fabrication and obsolete wastes, has been losing ground: in the 1949–1953 period it was 44.9 percent of total scrap; in the 1964–1968 period, 40.0%.[13]

Rubber reclaiming is a declining activity both absolutely and in relation to total rubber consumption. In 1968 reclaim consumption was 18% of total rubber consumption, in 1970, 9.5%.[14]

The major nonferrous metals—aluminum, copper, zinc, and lead—are reused at a composite rate of around 40% of total consumption and this percentage has remained fairly constant over time.[15]

Historical data on other materials are not readily available in aggregate form, but declining recovery is generally the rule.

It is reasonable to assume that a secondary material, one that has already been proc-

---

Footnotes at end of article.

---

*A substantial proportion of lead is used in gasoline as an anti-knock additive; this lead is dispersed and is unrecoverable.

*In the iron and steel industry, distinctions are made between "home" scrap, a process waste in furnaces and in mills; prompt scrap, occurring in fabrication plants; and obsolete scrap, from discarded products or obsolete structures. Purchased scrap is the combination of the last two categories.

essed, should be a more attractive raw material to industry than a virgin material that must be extracted or harvested and processed. The secondary material is already purified and concentrated; scrap steel, for instance, is nearly 100 percent steel while the iron ore from which it is made contains high proportions of silicate materials which must be removed. Why, then, the relatively low recycling rate found in the United States today? The low rate is the result of the action of a number of forces, among them the following:

(1) The delivered price of virgin raw materials to the manufacturer is almost as low in many cases as the cost of secondary materials, and virgin materials are usually qualitatively superior to salvaged materials. Consequently, demand for secondary materials is limited.

(2) Natural resources are abundant and manufacturing industries have directed their operations to exploit these. Plants are generally built near the source of virgin materials (e.g., paper plants near pulpwood supplies). Technology to utilize virgin materials has been perfected; due to the adverse economics, similar technology to exploit wastes has not been developed.

(3) Natural resources occur in concentrated form while wastes occur in a dispersed manner. Consequently, acquisition of wastes for recycling is costly, and is particularly sensitive to high transportation costs.

(4) Virgin materials, even in unprocessed form, tend to be more homogeneous in composition than waste materials and sorting and upgrading of mixed wastes is costly.

(5) The advent of synthetic materials made from hydrocarbons, and their combination with natural materials, cause contamination of the latter, limiting their recovery. The synthetics themselves are virtually impossible to sort and recover economically from mixed waste.

(6) There are artificial economic barriers which favor virgin material use over secondary material use. For example, depletion allowances, favorable capital gains treatments and apparently favorable freight rates are available to virgin materials processors but not to secondary materials processors. Also, producers presently do not have to internalize all costs of environmental pollution.

SECTION 2—KEY FINDINGS

The key findings of this report can be reduced to four major points:

(1) The use of recycled materials appears to result in a reduction in atmospheric emissions, waste generated, and energy consumption when compared with virgin materials utilization.

(2) The recovery of materials from waste depends largely on economics. The cost of manufacturing products from secondary materials is generally as high or higher than manufacturing products from virgin materials, and consequently only high quality and readily accessible waste materials can find a market. Artificial economic advantages available to virgin materials users (e.g., depletion allowances and capital gains treatments, and inability of the traditional market to internalize pollution and resource depletion costs) appear to have been major contributors to this economic situation.

(3) There has been sufficient technology development to allow extraction of materials from mixed municipal wastes. However, the cost of extraction is high making recovery processes attractive only in areas where high disposal costs prevail and favorable local markets exist for the materials.

(4) Recovery of materials (as opposed to energy) from mixed municipal wastes, while conceptually the best alternative to disposal, cannot be instituted on a large scale in the absence of: a substantial reduction in processing costs and/or upgrading in quality, which is simply unattainable given reasonable projection of technology; and/or a major reordering in relative virgin and secondary materials prices, to make secondary materials more economically attractive.

A more detailed discussion of each of these findings follows.

Environmental Impacts. The environmental impacts of recycling are of major importance. Studies conducted to date indicate that resource recovery generally results in reduced consumption of energy and materials and reduced effects of air and water pollution.

Resource recovery has three major environmental benefits: (1) recovery and reuse of a material conserves the natural resources from which that material is derived; (2) recycling of materials eliminates disposal, thus, the negative environmental effects of inadequately controlled solid waste disposal are reduced; (3) substitution of waste materials for virgin materials in the production system results in decreased energy requirements and decreased air and water effluents (based on studies of glass, paper, and ferrous metals) and avoids other kinds of environmental degradation, particularly in the extraction phase (e.g., strip mining). Data to substantiate these points are presented below.

Glass. Environmental impacts occur at every step of glass manufacturing from the mining of raw materials to final waste disposal. Changes in the amount of cullet (glass scrap) in the raw materials batch are responsible for significant changes in environmental effects.

Comparing the environmental impact of glass manufacturing using 15 and 60 percent cullet mixes, it is clear that increased cullet usage results in reduced quantities of residual discharge. Table 2 illustrates the impact changes for the two cullet mixes. A 60 percent cullet batch would result in over 50 percent less mining and postconsumer waste, 50 percent less water consumption, and up to 22 percent less atmospheric emissions. The energy requirements either increase 3 percent or decrease 6 percent depending on the recovery system used for obtaining the cullet.

Paper. There are significant changes in environmental impact when waste paper is substituted for virgin wood pulp in the production of paper products. Table 3 summarizes the environmental impacts produced by manufacturing 1,000 tons of pulp from recycled fiber rather than from virgin wood pulp. The recycled fiber case requires 61 percent less water and 70 percent less air pollutants.

If deinking and bleaching is required to upgrade the secondary fibers for high quality finished products, recycling still produces environmental benefits in almost every category. Table 4, which compares virgin pulp with recycled deinked pulp, indicates that 15 percent less water and 60 percent less energy are required, and 60 percent less air pollutants generated. However, the waterborne wastes increase significantly. The increase in solid wastes generated in processing is more than offset by the recovery of paper from municipal solid waste.

Ferrous Metals. There are also substantial changes in environmental impact from utilizing recycled steel rather than producing steel from iron ore. A comparison of the impacts of producing 1,000 tons of steel reinforcing bars from virgin ore and from scrap indicates that 74 percent less energy and 51 percent less water are used in the recycling case. Additionally, air pollution effluents are reduced by 86 percent and mining wastes by 97 percent (Table 5).

The results presented in Tables 2–5, were derived from surveys conducted from 1968–1970 and represent pollution in a relatively uncontrolled situation. As air and water pollution control legislation and implementing regulations become more effective some of the costs of environmental degradation will be internalized. This might result in an improvement in the environmental impacts of virgin material utilization and decrease the cost advantage of virgin versus secondary materials. EPA is carrying out further analysis of this process and the attendant costs and results will be presented in subsequent reports to Congress.

The results presented indicate that in most cases studied the atmospheric effluents, waterborne wastes, solid wastes, energy and water consumption are substantially lower for resource recovery as compared to virgin material utilization. However, the full environmental impact of this result is difficult to assess completely. Residuals and wastes produce different degrees of environmental damage depending both upon their composition and the location in which they are released. Emissions in high population areas could affect public health and welfare, while in rural areas, plant and wildlife ecology could be altered. Further research and analysis is needed to evaluate the overall environmental impact of the different mix and different location of emissions brought about by increased levels of recycling.

Economics. There are a number of historical, technical, locational, attitudinal, and other reasons for the decline of resource recovery, all of which can be translated into relatively high *total* costs for waste recovery compared with virgin materials processing. Secondary materials derived from municipal waste in almost every instance have a higher cost to the material user than virgin materials.

Again glass, paper, and ferrous metals provide illustrations.

Glass. Cost comparisons of glass manufacture from either waste glass (cullet) or virgin raw materials depend primarily on the delivered cost to the plant of each raw material. Glass can be made from cullet in existing plants with minor and inexpensive process changes. The production costs are essentially the same with either raw material. Similarly, a new plant designed to use cullet would be very similar to a plant based on virgin materials and would be no more costly to construct.

Table 6 compares the cost of using virgin raw materials with the cost of using cullet. The lower end of the cullet price range reflects a transportation distance of 25 miles or less. As distance from the glass plant increase, the price obviously rises. Since most recovered glass would need to be moved more than 25 miles, the upper end of the range provides the best estimate.

Glass manufacturers are not likely to make even the minor process changes required to increase cullet consumption where the cost of using the virgin materials from well established sources with predictable supplies and prices is equal to or less than that of bringing an unfamiliar, possibly contaminated substitute.

Paper. The comparative economics of using supplemental waste paper in existing mills for manufacturing certain paper products are shown in Table 7. These examples are by no means exhaustive of the many paper industry products, but these cases representing three products with different economic characteristics support what would seem to be obvious from the current industry orientation. The cost penalty for increasing the use of paperstock is $2.50/ton for corrugating medium, $3.75/ton for linerboard (corrugating medium and linerboard are the materials used to make corrugated boxes), and $20–$30/ton for printing/writing paper. The latter cost differential is the result of substantial upgrading of waste paper that would be required to produce a product of the present high quality required in the printing/writing grade of paper. The cost of newsprint manufacture, however, is lowered by using 100 percent recycled fiber (deinked newsprint). This has been the only major new market for waste paper in recent years.

The economics of constructing new mills based on either virgin or secondary fibers also shows why the industry has preferred to build plants utilizing virgin fiber. An analysis of folding boxboard (combination board made from secondary fiber versus solid wood pulp board made from virgin pulp) found the return on investment for the virgin based plant to be 8.1% while that for a plant based on waste paper (combination board) was only 4.5%. Under such circumstances, construction of new combination board mills is highly unlikely.

Ferrous Metals. The costs to an integrated steel producer of using scrap versus ore are difficult to determine. The steel industry does not maintain or at least does not report such figures. Estimates have been made, however, which indicate that the cost of using high-grade scrap is higher than the cost of using ore.[18]

The point of equivalency of scrap and ore in the production process is the point where either hot molten pig iron or melted scrap is used to charge a basic oxygen furnace (BOF). The total cost of scrap at this point was estimated to be $44.00 per ton, including $33.50 purchase price of the scrap, $6.00 melting cost, $3.50 for scrap handling, and $1.00 for increased refractory wear caused by scrap usage. The cost of molten pig iron (which competes directly with scrap) was estimated at $37.50 per ton including $28.50 for the ore and associated raw materials, and $9.00 for melting cost. Thus, the cost of scrap ready for charging to a BOF is about $6.50 per ton greater than the hot metal derived from ore at the same point. Thus, without a reduction in scrap cost of at least $6.00 to $7.00 per ton, it is unlikely that there will be a substantial increase in utilization of scrap by existing steel mills in BOF steel production.

Nonintegrated steel mills using electric furnaces (which operate on virtually a 100 percent scrap charge) of course,*find scrap use economical. These scattered mills are usually located near metropolitan areas and transport cost of scrap is not a major expense.

The above cases illustrate the fundamental economic barriers to the increased utilization of secondary materials. The economics of recovery today result in the recovery of all waste materials that are of high quality and can be obtained from reasonably concentrated sources. Extraction of materials from solid waste is limited both by the relatively low quality of such wastes due to contamination and admixture with foreign materials, and by the relatively greater effort required to acquire such materials.

Economic Disincentives. A part of the cost differentials between secondary and virgin raw materials are in fact artificially created by public policy actions. Virgin materials enjoy depletion allowances and other subsidies such as favorable capital gains treatments. For example, due to the 15 percent depletion allowance on iron ore, the ore producer could lower his selling price by 13.5 percent without reducing his profit margin. Publicly controlled freight rates appear to discriminate against the movement of scrap materials. To a large extent, virgin materials prices do not reflect the full costs of environmental degradation the materials create. Furthermore, the fuels required for energy to extract and to process the virgin materials—which are high energy consumers—are also subsidized by depletion allowances.

Environmental regulations will tend to internalize pollution costs and many partially close the relative cost gap between use of virgin and recycled materials. However, the overall timing and impact of these measures is difficult to predict. Under the present market conditions, pollution regulations may in some cases work to the detriment of recycling. For example, in the paper industry many combination board mills (the major users of secondary paper) are already economically marginal operations and will find it difficult to absorb additional pollution control expenditures. Also, many type of environmental degradation resulting from virgin materials use, e.g., strip mining are not currently subject to controls.

Resource Recovery Technology. Technology to process mixed municipal wastes for recovery as materials, commodities and energy has been and is being developed by private industry, generally without Federal support.

EPA's resource recovery demonstration program, carried out under Section 208 of the Solid Waste Disposal Act, is designed to demonstrate the major technologies that have been developed in areas where both economic and market conditions for successful demonstration can be found.

The major technical options being considered are the following:

Materials separation into saleable components.

Composting of waste and production of soil modifiers.

Waste heat recovery in conventional incineration.

Waste heat recovery in high temperature incineration.

Direct firing of prepared waste as fuel.

Pyrolysis of waste to generate steam or gaseous, liquid, or solid fuel.

Of these options, a number have already been or are now being demonstrated.

Wet materials separation employing a system developed by the Black-Clawson Company has been demonstrated at Franklin, Ohio, with EPA support. After shredding, metals, glass, and saleable pulp are separated.

A number of composting plants have been built and have been operated successfully from a technical point of view (See Appendix). The majority have failed, however, because markets for the compost products did not materialize. The rather high cost of producing compost is not sufficiently offset by income from its sale.

Waste heat recovery in conventional incineration has been demonstrated both here and broad; this is also a well known practice. (See Appendix).

Direct firing of prepared waste as fuel is now being demonstrated in St. Louis, Missouri. Waste is shredded; ferrous metals are removed by a magnet; and the remaining waste, including nonferrous metals and broken glass, is introduced into a utility boiler where it is burned with coal to generate steam for the utility's turbines.

Partial separation of incinerator residues, i.e., the extraction of steel cans by magnets, has been demonstrated at a number of locations.

Major technical options or variants that have not yet been demonstrated included the following:

Total Incinerator Residue Separation as Developed by the Bureau of Mines. This system recovers glass, nonferrous metals and some fractions of the minerals in residues in addition to iron and steel. A pilot plant has been operated by the Bureau of Mines.

Dry Mechanical Waste Separation. Various components of such systems (such as shredders, magnets, grinders, conveyors, etc.) are commercially available. An air separator which performs a gross division of wastes into combustible and noncombustible fractions has been employed as part of an EPA contract with Combustion Power Equipment Co. in Los Angeles, California. Materials separators have been widely used in other industries such as mining and agriculture. To date application of these technologies to solid waste separation have not been fully exploited by industry because secure markets for output products do not exist.

Waste Heat Recovery in High Temperature Incineration. Several such incinerators have been developed; all operate in a similar manner.

Pyrolysis. Several systems have been developed by high-technology companies (Monsanto, Hercules, Garrett, Union Carbide). Like high temperature incinerators, these are also very similar in operation. They can be designed to yield output of fuel gas, oil, and char, or can be utilized directly to generate steam.

Economic data on the investment costs, operating costs, and revenues of major resource recovery system options have been developed by Midwest Research Institute under contract with EPA and the Council on Environmental Quality. All of the major systems examined show a net cost of operation: revenues are not sufficient to cover all operating costs. In a municipally owned plant with an input capacity of 1000 tons per day, net costs will range from a low of $2.70 per ton for fuel recovery by direct waste firing to a high of $8.97 per ton for incineration with electrical generation (Table 8). While the costs indicate that resource recovery by processing is not a profitable venture, in those communities where disposal costs are high, the lower cost resource recovery options offer a means of reducing disposal costs.

Figure 1 shows that recovery system economics improve with size. These data are based on current prices for secondary materials (Table 9). The results show that recovery by processing could be attractive in large cities generating large quantities of waste if the increased quantities of materials recovered do not drive secondary material prices down. Table 10 shows the sensitivity of system economics to the market price of recovered materials. It can be seen that, if higher prices are obtained, which may be the case if incentives for use of secondary materials are instituted, system economics are signficantly improved. Using the case of materials recovery as an example, a 50 percent increase in prices results in a reduction of net costs from $4.77 per ton to $2.56 per ton. A materials price decrease of the same amount would raise net costs to $6.98.

The costs presented in Tables 8 and 10 suggest that resource recovery is a more economical option than incineration. The fact that there is no apparent move to install resource recovery systems is partially explained by the fact that the markets for recovered commodities are uncertain. Cities are unable to obtain purchase contracts with local buyers of waste materials at fixed prices. The failure rate of compost plants, due to lack of markets, has solidified feelings of market uncertainty. And finally, traditional municipal reluctance to undertake large scale capital investment, particularly where there is some element of risk, and other institutional problems have also contributed to the failure to move to resource recovery systems.

In summary, in most cases technology is available for implementing resource recovery through the processing of mixed municipal wastes. The technical processing route is costly but, in some of the technical options, costs approach those of other means of disposal. Although technological improvements would result in some cost reductions, technology is not likely to dramatically improve the marketability of products. If incentives for secondary materials consumption were instituted, and improved prices for waste-based commodities were established, further technology development by the private sector could be expected.

Recovery from mixed municipal waste

In order to achieve recovery of materials from mixed municipal waste economics must be favorable at two key points. The municipality must find the cost of resource recovery competitive with disposal, and secondly, the user of the materials from these systems must find the cost of these second-

Footnotes at end of article.

ary materials competitive with virgin materials substitutes. Recovery of materials from mixed municipal waste requires processing. With the exception of a score or so of very large cities, most communities have disposal costs which are lower ($2 and $3 per ton) than the resource recovery alternative. As shown above, recovery processing costs tend to exceed revenues from the sale of products, and the resulting net cost is higher in most places than current disposal costs.

Even in areas where disposal costs are already high—in excess of $5 per ton—resource recovery is limited because no markets can be guaranteed for recovery plant outputs at the tonnage levels at which they can be produced.

From the standpoint of the municipality, when, two changes that would bring about larger scale recovery of mixed municipal waste are (1) higher prices for recovery plant outputs or—alternatively—reduced recovery plant production costs and (2) an increase in demand for waste-based raw materials.

These requirements, however, are somewhat at odds with the requirements of the user who must purchase the outputs of such plants. As has been shown, the economics of virgin materials use are already more favorable than the economics of secondary material use. Lower waste prices are needed to change this situation. In order to insure a demand for secondary materials, they must either decrease in price or—alternatively—their use must be subsidized.

SECTION 3—DISCUSSION OF MAJOR OPTIONS

EPA's studies have progressed to a point where the major options available to bring about resource recovery at an increased rate—where such action can be justified on environmental and conservation grounds—are generally identifiable. The fundamental requirement is to create a situation wherein industrial materials users will substitute secondary materials for virgin materials to the extent this results in more efficient use of resources. This situation could be brought about by three types of activities: (1) actions to inhibit the use of virgin materials, (2) actions to create a demand for secondary materials, and/or (3) actions to create a supply of secondary materials of such quality and at such a price that they will appropriately satisfy the new demand.

Inhibitory mechanisms, aimed at restricting the consumption of virgin materials, would normally take the form of disincentives or regulatory actions. Actions to create demand or supply would normally require the provisions of positive incentives. An analysis of each of the major options follows.

Inhibition of Virgin Materials Use. If the supplies of virgin materials available to industry were denied or restricted, the cost of the remaining available portion would rise as a consequence of continuing demand. In relation to secondary materials, then, virgin materials would become more expensive, and more secondary materials would be used. Similarly, if the costs of virgin materials were raised artificially (by taxation, by removal of depletion allowances, capital gains treatment, or other means), the same consequence would result.

The desirability of major intervention into virgin materials use in order to increase recycling can be easily questioned on the grounds that a very large materials tonnage (5.8 billion tons) may have to be affected in order to increase a small portion (55 to 60 million tons).

Several "natural" events are likely to cause virgin materials to rise in cost without any form of government intervention. These events include: (1) tighter pollution control regulations and enforcement, resulting in higher pollution control costs; (2) increasing energy costs, which will affect virgin materials proportionately more because they are more energy intensive than secondary materials; (3) depletion of high quality domestic reserves and the need to exploit leaner ores or to import raw materials across greater distances; (4) potentially adverse foreign trade policies; and others. The timing and impact of these market corrections is difficult to predict but are expected to be significant.

"Artificial" intervention is possible through the institution of virgin materials taxes and/or the removal or modification of favorable tax treatment of virgin materials and energy substances, regulation of virgin materials that are available from Federal land, denial of markets to virgin materials through Federal procurement policies, changes in transportation costs through Federal regulation of rail and ocean freight rates, changes in Federally mandated labeling regulations, and, at the extreme, the institution of national materials standards that would limit the use of virgin materials in major materials to some percentile below that now common.

The costs, benefits, and probable effectiveness of each major action listed above are under analysis. Based on initial findings, EPA sees justification for more aggressive Federal procurement policies to limit the use of virgin materials in products (with all the implied consequences of such a leadership posture), actions to remove freight rate disparities that appear to favor virgin materials, and removal of labeling regulations that discourage consumer purchasing of products that contain "waste" materials.

An example of Federal procurement changes already exists. The changes introduced in 76 paper product specifications by the General Services Administration under orders from the President are already having some impact on paper and board production. Intensification of such actions is certain to have beneficial impacts on resource recovery.

Fiscal measures (e.g., taxes to discourage virgin use) could be addressed to the artificial economic benefits which now favor virgin materials use. Such measures, however, would have a variety of other impacts as well, which are being evaluated to determine whether or not fiscal measures to inhibit virgin materials uses are cost effective. In light of a series of natural events that will raise virgin materials costs—especially rising energy costs—fiscal intervention may not appear either necessary or desirable.

Regulatory actions are viable alternatives for increasing resource recovery, but such actions, as related to virgin materials resource use, need further evaluation to determine their side effects, which may be adverse.

Demand Creation. EPA's investigations to date lead to the conclusion that positive economic incentives may be desirable in order to arrest the relative decline of materials recovery and to increase the proportion of total national materials needs satisfied from waste-based raw materials.

There is evidence that energy recovery from mixed municipal waste will become a very real option to both private and public sector waste management organizations without incentives of any sort and that limited materials recovery—steel, aluminum, and glass—will accompany such energy recovery activities.

The most efficient incentive for materials recovery would be one which results in the creation of new demand by industry for secondary materials, such as some form of tax incentive or subsidy payment to users of secondary materials. If an incentive results in a "demand pull" by industry, such demand will automatically result in changes in the way wastes are stored, collected, and processed. The key to increased recovery is the waste commodity buyer rather than the commodity supplier. Only if the buyer finds waste materials a more economical alternative than virgin materials will greater quantities be utilized. Incentives provided directly to the buyer are most likely to have the most dramatic effect on his actions.

Demand creation incentives can take a variety of forms. The particular form the incentive takes is important from the administrative and legal points of view. Also, different types of incentives have different efficiencies (cost—effectiveness). The important point—regardless of mechanism used—is that the materials producer (steel mill, paper mill, glass plant, etc.) should find himself in a situation where the use of secondary material is to his economic advantage.

Potentially, several types of incentive measures satisfy this criterion: investment tax credits, tax credits for use of secondary materials, subsidy payments or bounties, subsidy of plant and equipment for processing or using secondary materials, etc. If the incentive is made available to the materials consumer directly, a demand for waste materials will result.

Functionaly, the incentive must be high enough so that—at the point of materials consumption—the cost of the secondary material to the buyer is at least the same (in the same quality range) as the cost of the virgin material. Investigations are underway to identify the level of necessary incentives. As shown in a previous section, it appears that the incentive required to "equalize" the costs of virgin and secondary materials would range from $2.50 to $30 per ton of material recovered. These values are based on a limited number of comparisons and should be viewed as somewhat tentative. It is estimated that as "across the board" incentive sufficient to result in substantial increases in resource recovery would range from $3 to $5 per ton of material recovered. A subsidy of this magnitude should be largely offset by savings in disposal costs since materials recycled would be removed from the waste stream and thus would not incur the cost of landfill or incineration. In addition, there would be important environmental benefits from increased recycling.

Supply Creation. Incentives for demand creation are veiwed as sufficient inducement to bring about resource recovery at an accelerated rate. Such incentives, if appropriately designed, should spur private and public investment in resource recovery plants and systems, to deliver to industry the types and quantities of secondary materials it will demand.

As incentives bring about demand by consumers for increased quantities of secondary materials, the demand will reverberate down the chain of suppliers and will bring about some changes in supply patterns. It is likely, for example, that increased "skimming" of accessible wastes (removal from wastes before discard) such as newspapers, corrugated boxes, and office papers would occur from municipal and commercial sources and that such recovery would take place at lower overall costs than technological sorting.

Most of the solid waste materials that would be demanded by industry now pass through the hands of municipal solid waste management organizations who collect waste in mixed forms. In order to sell all proportions of waste now collected, these organizations face two alternatives: to collect waste fractions separately or to process mixed wastes into separate fractions.

Both alternatives have drawbacks. Separate collection of different waste fractions, while once widely practiced has virtually disappeared. Combined waste collection using the more efficient compactor truck has become standard in residential, institutional, and commercial waste collection practice. Reinstitution of separate collection will require changes in practices and equipment.

The processing option is capital intensive. The economics of processing require large plant sizes in order to take advantage of economics of scale. In order for the economics to be attractive, plant sizes of 1000

tons per day of input or higher are required. There are few communities with such high generation rates.

If demand incentives result in higher secondary materials prices, public and private waste management organizations would be able to justify processing of municipal wastes for recovery in lieu of processing for disposal. Higher prices for waste-based commodities will also permit the use of smaller capacity plants; the higher prices will compensate for the higher processing costs of small plants.

In smaller communities, where recovery by processing is not likely to be economical, provision of supplies by separate collections is a possibility. The separate collection option, which was once practiced extensively, will require technical, institutional, and social changes to become a part of today's society. At this point, enough knowledge has been gained to see that citizen enthusiasm for resource recovery (expressed in the institution of thousands of neighborhood recycling centers), holds the potential for new and innovative options for solid waste collection. Furthermore, the successful experience of Madison, Wisconsin, where city crews collect newspapers separated from other wastes by the citizenry, indicates that alternatives to large scale recovery plants do indeed exist.

Such approaches to supply creation are still being analyzed as part of EPA's resource recovery studies program.

Other Options. In addition to action programs that would impact directly on resource recovery, a number of related activities are also under consideration whose consequences would be to attack the broader problem of "excessive materials consumption" in the United States rather than one aspect of that problem, low resource recovery rates.

Source reduction proposals are usually aimed at a particular product (beverage containers) or a class of products (packaging, appliances).

Source reduction options fall into four categories: (1) bans or other disincentives applied to a product or class of products; (2) performance standard setting that will result in longer-lived products, whereby more "use" or "service" is obtained from a given quantity of materials than is the case if rapid obsolescence is promoted; (3) substitution of production processes with low waste yields for waste-intensive processes, for instance, dry paper making in place of wet pulping; and (4) substitution of products with low-materials requirements for those with high materials requirements, for instance, electronic calculators for the more material-intensive mechanical calculators or substitution of electronic communications media for media that require paper.

EPA's investigation of source reduction concepts is currently aimed at packaging and other disposables, products which are particularly significant in their contribution to solid waste quantities and whose consumption has been growing rapidly. An EPA study is underway to examine alternate taxing and regulatory measures for reducing the quantities of packaging materials consumed.

Such measures might be successful in either (a) reducing consumption of packaging and other disposables, (b) stimulating designs of more recyclable packaging or products, or (c) providing funds for defraying the litter cleanup, collection and disposal costs presently associated with these materials. The secondary effects of these measures, such as economic dislocation and employment disruptions are also being examined.

Of the various major options available for increasing the rate of recovery, intensified Federal procurement of waste-based products and further exploration of positive demand incentives appear most desirable in the long term, accompanied by activities to bring into line virgin and secondary materials freight rates. More information is needed about the necessity for and the effects, fairness, and workability of both source reduction and resource recovery incentive concepts before any such measures are implemented.

Demand creation would be achieved most efficiently by the direct route of rewarding the waste consumer for using secondary materials. Incentives for demand creation, if properly designed may bring about resource recovery at an accelerated rate less and would probably spur private and public investment in resource recovery plants and systems to supply secondary materials. Certain changes in supply patterns may emerge which will result in some waste materials circumventing the recovery plants. "Skimming" of accessible wastes such as newspapers, corrugated boxes and office papers is such a change. For smaller communities where recovery by processing is not likely to be economical, provision of supplies by separate collection is a potential solution.

Actions aimed at removing certain artificial barriers are under serious consideration by EPA, especially Federal procurement policies to increase the use of secondary materials in products and actions to remove freight rate disparities that appear to favor virgin materials.

Taxes and regulation to reduce the consumption of certain product categories such as packaging to reduce the load on the solid waste stream are presently under investigation. Stimulation of more recyclable package designs and provision of funds for litter clean-up are secondary benefits of such actions.

SECTION 4—DISCUSSION OF PROGRAM ACTIVITIES

The foregoing presentation and preliminary conclusion as well as the data, information, and discussions of specific materials included in the Appendix are based on EPA resource recovery program activities, carried out both by in-house staff efforts and contract research in support of internal analysis.

An overview of the basic plan for carrying out the Congressional mandate is shown in Figure 2. The problem is defined in terms of the adverse environmental effects of materials processing and disposal and efficiency of resource utilization. The broad solutions identified to the problem are increased resource recovery and source reduction activities. A number of policy options available to achieve the solution are shown. Next, specific program activities to implement the policy option are shown arranged into "primary" and "secondary" priority emphasis categories. Finally, an evaluation procedure by which specific action programs will be selected for recommendation is outlined.

Figure 3 shows the various alternatives available for reaching the objective of increased waste utilization; Figure 4 illustrates the alternatives available to obtain the objective of source reduction; and Figure 5 illustrates the points in the materials cycle where the various action program alternatives would have their impacts.

For purposes of discussion, EPA's program efforts can be classified into three types of activities: (1) background studies that provide for understanding the subject of resource recovery in its many facets; (2) studies to formulate and to analyze action programs; and (3) studies to evaluate the impacts and effectiveness of action programs that appear to have merit. In what follows, the various past, on-going, and projected activities of EPA will be discussed under these headings.

Background Studies. Background investigations include data collection, survey, and information classification in order to establish the status and trends of recycling and identify problems, barriers and opportunities for increased waste use. To date a number of background investigations have been completed and are nearing publication. A list of completed studies is presented on Table 11. These cover topics such as municipal resource recovery practices, secondary materials recovery, unit processes in resource recovery, and comprehensive recovery systems.

Review of this information is underway, data and information gaps have been identified, and the need for further background investigations has been established in the following areas:

(1) Recycling base line—In order to assess an incentive mechanism designed to increase recovery of wastes, it is first necessary to the project future recycling that is likely to occur in the absence of the proposed incentive. Factors which could influence this base line are:

Rising municipal disposal costs.
Envrionmental legislation.
Recovery technology development.
Rising energy prices.
Change in labor productivity.
Private sector and local government actions.

An investigation is being carried out to forecast this base line in the absence of Federal Government activity.

(2) Available for recycling—It is also important to estimate the practical upper limit on recovery in order to assess the effectiveness of proposed recycling measures. It is not feasible to recover all of the solid waste generated. The amount available for recycling is determined by factors such as:

Losses in processing, collection and handling.
Amounts generated in remote areas.
Self-disposal activities.
Materials dispersed in trace quantities.
Materials concealed or mixed in products.

The practical limits on recycling are being projected to serve as a guide for evaluating recycling activities.

(3) Freight rates—Transport rates may have an unfavorable effect on the prices of secondary materials as compared to virgin materials. However, differences which exist may be justified by cost to the carrier. An investigation of the basis and structure of transport rates is being carried out in an attempt to:

Compare actual freight rates for secondary and primary materials.
Compare carrier cost of shipping and factors affecting this cost.
Establish the effect of rates on the relative prices of virgin and waste materials.

TABLE 11—COMPLETED STUDIES AND INVESTIGATIONS

Background studies

Salvage Markets for Commodities Entering The Solid Waste Stream—An Economic Study. Midwest Research Institute, 1971.

Studies to Identify Opportunities for Increased Solid Waste Utilization—Studies completed for Aluminum, Lead, Copper, Zinc, Nickel and Stainless Steel, Precious Metals, Paper and Textiles. Battelle Memorial Institute and National Association of Secondary Materials Industries, 1971.

Identification of Opportunities for Increased Recycling of Ferrous Solid Waste. Battelle Memorial Institute and Institute of Secondary Iron and Steel, 1971.

An Analysis of Federal Programs Affecting Solid Waste Management and Recycling. SCS Engineers, 1971.

Catalog of Resource Recovery Systems for Mixed Municipal Waste. Midwest Research Institute and Council of Environmental Quality 1971.

Recovery and Utilization of Municipal Solid Wastes. Battelle Memorial Institute, 1971.

Formulation and analysis of action programs

An Analysis of the Abandoned Automobile Problem. Booz-Allen Hamilton, 1972.

Incentives for Tire Recycling and Reuse. International Research and Technology, 1971.

An Analysis of the Beverage Container Problem with Recommendations for Government Policy. Research Triangle Institute, 1972.

The Economics of the Plastics Industry. Arthur D. Little, 1972.

Strategies to Increase Recovery of Resources from Combustible Solid Wastes. International Research and Technology, 1972.

Evaluation

Economic and Environmental Analysis—Studies completed for Paper, Ferrous Metals and Glass. Midwest Research Institute and Council of Environmental Quality, 1971.

Preliminary Report on a Federal Tax Credit Incentive for Recycling Post Consumer Waste Materials. Resource Planning Associates, 1972.

(4) Source separation and collection—In order to analyze incentives and policies to promote increased recycling, the reliability and costs of obtaining wastes from different sources must be known. There are three source separation techniques currently employed to collect wastes segregated at households or business establishments:

Community recycling centers.

Separate collections (by volunteer organizations, municipal or private collectors, and secondary material dealers).

Separation of wastes during regular household collections.

An example of the latter type of operation exists in Madison Wisconsin, where segregated newspapers are collected with other household wastes and placed in a separate bin hung below the collection vehicle.

In order to provide the background information needed to evaluate these techniques, studies will be carried out to assess:

Consumer attitudes to source separation techniques.

Costs involved in collecting segregated materials and transporting them to users.

Amounts of material that can feasibly be recycled through these channels.

Formulation of Action Programs—Work in this area involves identifying and formulating means of increasing recycling through demand creation, supply creation and inhibiting virgin material use. Studies of incentive alternatives that have been completed but not yet released are listed in Table 11. These involve incentives for automobile hulks, plastics, tires, beverage containers and combustible wastes. These studies are presently under internal review and, where appropriate, recommendations will be forthcoming. The contract reports will be availble for public distribution when the review is complete.

Program plans are being developed for the following incentive and regulatory measures which will be analyzed and evaluated in the next year.

Economic Incentives:

Recycling tax credit or subsidy for the use of post consumer waste.

Investment credit or subsidy for recovery equipment.

Virgin material tax to increase cost of virgin material use.

Waste generation tax to reduce the amount of waste produced.

Government procurement to create a demand for waste materials.

Depletion allowance adjustment to increase costs of virgin materials.

Regulatory Measures:

Transport rate adjustment to equalize freight rates.

Material standards specifying waste use in certain products.

Virgin resource control on Federal lands.

Regulation of waste and virgin material imports and exports.

Evaluation. Evaluation of the programs listed above consists of determining:

1. The wastes recycled.
2. The resources conserved.
3. The environmental impacts.
4. The costs and savings.
5. The implementation requirements.
6. Other impacts such as employment, foreign trade, industrial dislocation, etc.

Work in this area involves first developing a methodology for carrying out the evaluation of the different aspects and secondly applying the methodology to the specific incentive and regulatory measures. As indicated by the reports listed on Table 11, environmental impact analysis for paper, ferrous metals, and glass has been started and a preliminary cost effectiveness study has been carried out for one type of incentive—the recycling tax credit.

As will be discussed below, additional work is required in the areas of predicting waste recycling and estimating resource requirements and environmental impacts. The costs and savings follow directly from these measures. The implementation requirements and other impacts must be evaluated on an individual basis for each particular incentive or regulatory mechanism.

(1) Predicted recycling—In order to predict the amount of waste material that would be recycled as a result of an incentive or regulation, it is necessary to estimate the elasticity of supply and demand with price for the waste and the competitive virgin material. This requires analysis of historical price-quantity data, financial analyses to determine the effect on profit, return and investment decisions, and analysis of material processing costs. Work is underway aimed at recycling through the major waste using industries (such as waste paper, scrap steel, and glass).

(2) Environmental impacts and resource consumption—Work in this area involves laying out the entire waste material use system from acquisition to disposal. At each element of the system the air and water pollution produced are calculated along with the energy, water and materials consumed. Comparisons are made with and without recycling and the net environmental impact is determined. The work completed for paper, ferrous metals and glass will be expanded to include calculation of the pollution abatement cost savings due to recycling. Similar analyses will be carried out for aluminum, rubber, textiles and plastics.

In summary evaluation of the regulatory mechanisms and incentives involves

1. Determining the effectiveness of the measures proposed.
2. Comparing this to the recycling base line and practical upper limit.
3. Estimating costs and benefits.
4. Making an informed judgment as to the value of the measure.

Program activities described above are aimed at providing information necessary to formulate meaningful resource recovery policy. In the last half of the fiscal year ending June 30, 1973, recommendations will be made for measures to accomplish the goal of increased resource recovery on an environmentally, economically and socially sound basis. These measures will be described in the Second Annual Report to Congress.

FOOTNOTES

[1] Ayres, R. U., and A. V. Kneese. Environmental Pollution. In Resource Recovery Act of 1969 (Part 2). Hearings before the Subcommittee on Public Works, United States Senate, 91st Congress, 1st session, Serial No. 91–13. Washington, U.S. Government Printing Office, 1969. p. 821.

[2] Ayres, and Kneese, Environmental pollution, p. 821. (Data for 1968 and 1971 are extrapolations from the 1963, 1964, 1965 base data.)

[3] Ayres, and Kneese, Environmental pollution, p. 819.

[4] Darnay, A. J., Jr., and W. E. Franklin, Economics of salvage markets for commodities entering the solid waste stream. Unpublished data, 1972. (To be published as Salvage markets for materials in solid wastes. Washington, U.S. Government Printing Office.)

[5] Midwest Research Institute. Economic studies in support of policy formation on resource recovery. Unpublished data, 1972.

[6] Darney, A., and W. E. Franklin. The role of packaging in solid waste management, 1966 to 1976. Public Health Service Publication No. 1855. Washington, U.S. Government Printing Office, 1969. p. 105.

[7] FPA extrapolation based on (1) data for 1967 from: Black, R. J., A. J. Muhich, A. J. Klee, H. L. Hickman, Jr., and R. D. Vaughan. The national solid wastes survey; an interim report. (Cincinnati), U.S. Department of Health, Education, and Welfare, (1968). p. 13. (2) Census data from Statistical Abstracts of the U.S.

[8] EPA extrapolation based on (1) data for 1965 from: Combustion Engineering, Inc. Technical-economic study of solid waste disposal needs and practices. Public Health Service Publication No. 1886. Washington, U.S. Government Printing Office, 1969. (705 p.)

[9] EPA extrapolation based on (1) data for 1965 from: Air pollution—1966. Hearing before the Subcommittee on Air and Water Polution of the Committee on Public Works, United States Senate, 91st Congress, 1st Session, October 27, 1969. Washington, U.S. Government Printing Office, 1970. 244 p.

(2) Bureau of Mines estimates.

[10] EPA extrapolation based on (1) data for 1966 from: Air pollution—1969. (2) Agricultural handbook. 1971.

[11] Black, Muhich, Klee, Hickman, and Vaughan, The national solid wastes survey: an interim report, 1968, p. 13.

[12] Darnay, and Franklin, Economics of salvage markets for commodities entering the solid waste stream. Unpublished data, 1972. Chap. 4. p. 26.

[13] Darnay, and Franklin, Economics of salvage markets for commodities entering the solid waste stream. Unpublished data, 1972, Chap. 5, p. 16.

[14] Darnay, and Franklin, Economics of salvage markets for commodities entering the solid waste stream. Unpublished data, 1972, Chap. 9.

[15] Darnay, and Franklin, Economics of salvage markets for commodities entering the solid waste stream. Unpublished data, 1972, Chap. 6.

[16] Midwest Research Institute. Resource recovery from mixed municipal solid wastes. Unpublished data, 1972.

By Mr. MANSFIELD (for Mr. BAYH):

S. 1088. A bill to protect the public interest in fair and impartial execution of the antitrust laws of the United States, and for other purposes. Referred to the Committee on the Judiciary.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Indiana (Mr. BAYH), I introduce a bill, and I ask unanimous consent that a statement prepared by him together with the text of the bill be printed at this point in the RECORD.

The Presiding Officer (Mr. BIDEN). Without objection, it is so ordered.

THE ANTITRUST SETTLEMENT ACT OF 1973

(Statement by Senator BAYH)

Mr. President, I introduce for appropriate reference "The Antitrust Settlement Act

of 1973." This bill which I also introduced in the last Congress is designed to reform the process by which antitrust cases are settled in two important respects. First, it will provide a meaningful way for interested citizens to make their views known before an antitrust case is settled. Second, it will require the Department of Justice to explain to the court and to the public the reasons it has agreed to the proposed settlement.

One of the many lessons which can be learned from the extensive Judiciary Committee hearings last year into the manner in which the Justice Department reached a settlement of its antitrust suit against ITT is that there is currently no effective mechanism for ensuring that the public interest is protected in negotiated antitrust settlements. For this reason, the public is rightfully skeptical about the nature of the relationship between government and large private economic interests.

Few political realities are more evident today than the need to increase public confidence in the integrity of government. The legislation is a means of accomplishing that goal in an area where public confidence is especially low at the present time. How we react to this and other measures, which combine public involvement and full disclosure, will ultimately determine whether our system of government can fulfill its high goals. Democracy simply will not succeed if government insists on being aloof from the people from which its power flows.

The vast majority of antitrust cases are settled by agreement between the Department of Justice and the alleged violator without a full trial of the issues. Yet under present regulations, individual citizens have precious little opportunity to bring to the attention of the court and the Department their views of the terms of the settlements. Today, after secret negotiations between the Department and the antitrust defendant are concluded, the Department simply sits back and allows the public to comment for 30 days. There are no requirements that the Department publicize the terms of the proposed settlement, or seriously consider the comments that it receives. The bill I introduce today will change that.

The Antitrust Settlement Act of 1973 will require that the terms of every antitrust settlement be broadly publicized, and that relevant documents be made available to the public around the country. This will ensure that concerned citizens know that the Department has decided to forgo a full trial of the case, and that these citizens have the information they need to make intelligent comments about that decision. Further, the bill will require that the court to which the proposed settlement has been submitted withhold a decision on whether to accept the settlement for at least sixty days, during which time it and the Department will consider the comments the public submits.

There are two other important aspects of this bill, both of which are substantial and necessary changes from present practice. First, the court is directed to hold a hearing on the proposed settlement unless it finds that there is no substantial controversy about it. This will give the public a chance in every important case to bring its arguments directly to the judge or if the court so directs, to a special master appointed to hold the hearing. Second, and perhaps most important of all, the bill requires the Attorney General to present to the court and to the public before the settlement becomes final a full statement of the reasons that he believes the proposed settlement to be consistent with the antitrust laws and to be in the best interests of the United States.

Mr. President, such a statement by the Attorney General is the best safeguard the public has to ensure that antitrust settlements are really reached in the public interest. When the Department has good reasons for settling a case—and when it has thought those reasons through—it should have no objection to making its reasons public. And by making them public the Department will avoid the cloud of suspicion that all too often surrounds antitrust settlements. If the Department has done its job conscientiously, there will be little or no administrative burden involved in submitting to the court and the public the statement of reasons this bill requires.

Our antitrust laws reflect our nation's basic faith in the free enterprise system and our nation's healthy skepticism of the concentration of power—political or economic—in the hands of the few. Antitrust actions by the Justice Department are the most important single means of enforcing these laws. I do not go so far as to say that antitrust regulation is too important to be left to the regulators. But I do think that the regulators and the courts will benefit from listening to the views of interested citizens. And, equally important, public confidence in the way that antitrust settlements are reached will increase markedly if the public has a meaningful way to participate in the process.

It has come to my attention, Mr. President, since I introduced this bill in the 92nd Congress that it may be desirable to examine ways in which its provisions can be expanded to apply to consent judgments entered into by the Federal Trade Commission. In addition, I believe the subcommittee should also consider whether provisions can be added to this legislation which would protect the government in situations where the settlement of private antitrust actions may have a substantial effect on related litigation being conducted by the Department of Justice or the FTC. This problem was, of course, brought into focus recently when IBM and Controlled Data Corporation reached a private settlement that resulted in the destruction of evidence which was central to the government's litigation of IBM. I would hope that these issues can be examined by the subcommittee in its upcoming hearings.

My distinguished colleagues, the junior Senator from California (Mr. TUNNEY) and the senior Senator from Florida (Mr. GURNEY) have introduced legislation which in some respects is similar to the provisions of this bill. Both bills will be considered in hearings before the Antitrust Subcommittee next month. I invite others of my colleagues who support the concept of open settlements, openly arrived at to join me in this effort.

S. 1088

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 Antitrust Settlement Act of 1973".

SEC. 2. (a) Before any court of the United States permits any proposed consent judgment on decree or other settlement of any suit, action or proceeding arising under the antitrust laws and brought by or on behalf of the United States to become final, it shall:

(1) direct the United States to publicize the terms of the proposed settlement—

(A) by publishing for seven days over a period of two weeks in newspapers of general circulation of the district in which the case has been filed, in Washington, District of Columbia, and in such other districts as the court may direct (i) a summary of the terms of the proposed consent judgment or decree or other settlement, (ii) a description of the case (including the alleged conditions which lead the Department of Justice to conclude that the antitrust laws had been violated), (III) a list of the materials available under subsection (a)(1)(B) and the places where such material is available for public inspection, and (iv) an invitation to members of the public to send their comments on the terms of the proposed consent judgment or decree or other settlement to the Attorney General; and

(B) by making available to members of the public at United States courthouses in every district mentioned in subsection (a)(1)(A), and in such other districts as the court may deem appropriate, copies of the proposed consent judgment or decree or other settlement and such other documents as the court deems necessary to permit meaningful comment by members of the public on the proposed settlement; and

(C) by taking such other steps as the court deems appropriate to insure that members of the public have knowledge of the terms of the proposed consent judgment or decree or other settlement and an opportunity to comment thereon; and

(2) withhold decision on whether to permit the proposed consent judgment or decree or other settlement to become final for at least sixty days, or such other longer period as it deems necessary to allow the public adequate time to comment thereon and the United States and the court adequate time to consider such comments: *Provided, however,* That the court shall not permit the proposed consent judgment or decree or other settlement to become final before the Attorney General has complied with the requirements of subsection (b) and a hearing has been held in compliance with subsection (c).

(b) The Attorney General or his designate shall (1) distribute to the court and to the defendant copies of any comments he receives on the terms of the proposed consent judgment or decree or other settlement, and (2) if no substantial changes of public interest are made in the proposed consent judgment or decree or other settlement, submit to the court, by such date as the court may direct after the expiration of any period under subsection (a)(2), a statement that he has taken into consideration the comments, if any, received from members of the public and that he believes the proposed consent judgment or decree or other settlement to be consistent with the antitrust laws and to be in the best interests of the United States, together with a full and complete articulation of the reasons for his belief: *Provided,* That if substantial changes of public interest are made in the proposed consent judgment or decree or other settlement the provisions of sections (a) and (b) of this section will be applicable as if the proposed consent judgment or decree or other settlement were being presented to the court for the first time.

(c) The court shall order that a hearing be held on whether the proposed consent judgment or decree or other settlement should be allowed to become final, unless it finds after the Attorney General has complied with subsection (b) that there is no substantial controversy concerning the proposed consent judgment or decree or other settlement. The court may direct that such hearing be held before a special master appointed for that purpose.

(d)(1) The costs of any publicity ordered by a court pursuant to this section shall be borne equally by the United States and the defendant.

(2) The court, after deciding whether to allow the proposed consent judgment or decree or other settlement to become final, may award to any person the actual, necessary and reasonable costs incurred by such person in preparing and presenting comments or preparing and presenting responses to comments (other than the report required of the Attorney General by subsection (b)(2)) pursuant to this Act, whenever the court finds it is in the public interest to make such an award.

(e) Nothing in this section shall limit in any way the power of the courts of the United States to make such other orders, in connection with a proposed consent judg

ment or decree or other settlement of any suit, action or proceeding arising under the antitrust laws or any other laws as the court may lawfully make; nor shall anything in this section limit or expand in any way the power of the courts to accept or reject a proposed consent judgment or decree or other settlement of any suit, action, or proceeding arising under the antitrust laws or any other laws; nor shall anything in this section limit or expand in any way the rights of any person to intervene in any suit, action, or proceeding arising under the antitrust laws or any other laws.

By Mr. SCOTT of Pennsylvania (for himself, Mr. MATHIAS, and Mr. STEVENSON):

S. 1094. A bill to improve the regulation of Federal election campaign activities. Referred to the Committee on Rules and Administration.

By Mr. SCOTT of Pennsylvania (for himself and Mr. MATHIAS):

S. 1095. A bill to amend the Communications Act of 1934 with respect to the application of the equal time provisions of section 315 to candidates for Federal elective office, and for other purposes. Referred to the Committee on Commerce.

S. 1096. A bill to provide for a campaign mail privilege for qualified candidates for Federal office. Referred to the Committee on Post Office and Civil Service.

S. 1097. A bill to amend the Internal Revenue Code of 1954 to provide that political contributions are not subject to the gift tax. Referred to the Committee on Finance.

Mr. SCOTT of Pennsylvania. Mr. President, the 1972 elections were held 4 months ago and it is appropriate to ask ourselves now whether we know as much about them as we should. After all, the Federal Election Campaign Act of 1971 was supposed to tell us who gave how much to whom and when. If I were a professional critic, I would have to give the new law mixed reviews, citing its bold structure but spotty performance.

I introduced a very strong and effective campaign reform bill 2 years ago. If it had been enacted, the entire aura of the presidential campaign would have been strikingly different. I can say this because had my original proposal for an independent Federal Elections Commission been a part of the law, there would be no question as to the legality of certain campaign contributions and there certainly would not have been continuous haggling over various campaign practices and procedures. Many of the problems we encountered in 1972 were created because of a split between the administrators and the enforcers of the law, in addition to the three-way split among the repositories for the various Federal offices being sought. I said it 2 years ago, and I will say it again—what we need is an independent Federal Elections Commission to regulate campaign spending.

I am today introducing, along with the distinguished senior Senator from Maryland (Mr. MATHIAS), four bills to correct some of the deficiences in the existing campaign disclosure law—the greatest of which is the absence of a Federal Commission.

The first bill deals principally with the reporting and disclosure of campaign contributors. We propose to create a six-member Federal Elections Commission, appointed by the President and confirmed by the Senate. Each member would serve a 6-year term. The Commission would have full legal powers, including the subpena of witnesses and evidence. Furthermore, it would be empowered to "initiate, prosecute, defend, or appeal any court action . . . through its own legal representative." To avoid an overly large, year-around staff, the Commission would be able to use, at peak periods, the personnel and the facilities of the Department of Justice and the General Accounting Office. The Commission would submit its budget directly to Congress along with any recommendations it may have for legislation. Those functions now maintained in the GAO, the Secretary of the Senate and the Clerk of the House would be given an orderly transfer to the new Commission.

It would be helpful, at this point, to recall that the Senate previously supported the creation of a Federal Elections Commission by a vote of 89 to 2. Unfortunately, the House did not agree, and the conference committee had to compromise. But we are already on record in support of a very significant reform proposal. Perhaps the House might now be willing to go along with us.

There are a number of new features in our bill aimed at reducing the volume of paper work and eliminating the temptation to obfuscate the law. First, every candidate would be required to utilize the concept of a central campaign committee, through which all of his reports must pass. Regardless of the number of committees supporting his election, each must submit its report to the parent committee. The parent committee would, in turn, file its report with the Commission. Second, reports would include each amount contributed of $100 or more. Current law requires only amounts in excess of $100. Obviously, there is a substantial gap in the law here and we hope to close it. Third, we would require that cash contributions of $2,500 or more be reported within 24 hours. Current law stipulates that contributions of $5,000 or more be filed within 48 hours. We hope to pick up on the public record more large contributions in a shorter period of time. Fourth, we would eliminate the two reports now filed 15 and 5 days before an election and replace them with one report filed 10 days before an election. It is a small change, but it would mean greater public disclosure through a more simplified filing procedure.

Pursuant to an amendment I successfully offered in 1971, several Federal regulatory agencies have issued rules restricting the extension of unsecured credit to candidates who use regulated businesses such as airlines, telephones and telegraph. The campaign of 1968 simply spawned too many debtors. The bill we are offering today would move a step further. When any debt is compromised, that is, settled for less than full value, the candidate must file:

A statement as to the consideration for which any such debt is extinguished or a statement as to the circumstances and conditions under which any such debt is cancelled.

The second bill we are offering would exempt the equal time requirements in the broadcasting law for all Federal offices—President and Vice President, Senator, and Representative. This is the only fair way since each office should be given the fullest possible exposure through the medium of broadcasting. Once again, I would remind the Senate that this proposal was previously adopted by a vote of 71 to 21. The House of Representatives did not support our action and the entire matter was dropped in the conference committee.

I believe it is terribly important to give the broadcaster an opportunity to present the candidates' views to the public without giving time to every marginal candidate in an election. The public is the real loser if we do not do something to make free broadcast time available to legitimate candidates.

Our bill would also expand the definition of a legally qualified candidate to include persons who have publicly announced for office or have knowledge that contributions and expenditures have been made in their behalf. This new definition would cover those candidates who sometimes fly under false colors as "non-candidates".

The bill would also direct the Federal Communications Commission to study the effect of the equal time suspension on both the congressional and presidential campaigns. Congress would receive reports at the end of 1974 and 1976.

The third bill we are offering is substantially similar to a proposal we submitted 2 years ago dealing with campaign mail. We now propose to offer all candidates for Federal office the privilege of sending out a specified number of pieces of political mail at rates currently paid by nonprofit organizations.

Generally speaking, a candidate would be permitted to have two mailings, equal to the voting age population, prior to any election. Minor party candidates would be allowed a similar mailing, but only half the number of pieces. This bill stipulates that mail can only be addressed to persons in the area in which the candidate is eligible for office. In other words, if he is a Representative, he could not take "soundings" with reduced-rate mail if he was only interested in a Senate seat. He would have to qualify first.

I feel that all candidates, both incumbents and challengers, ought to be given the opportunity to communicate with the electorate in this unique way. Only through the fullest presentation of different political points of view can the public make the best choice.

The fourth bill we are submitting deals with the tax treatment of cash contributions to a political campaign. Current law now subjects contributions in excess of $3,000 to a Federal gift tax. What this has done is to encourage donors and donees to route many contributions of

this size through numerous "committees of evasion." To encourage full reporting and disclosure, and to simplify the filing requirements for candidates and political committees, the bill exempts all cash contributions from the gift tax. The revenue loss here is minimal, perhaps even nonexistant. However, the benefits of this new bill would far outweigh any loss in revenue to the Treasury.

Mr. President, the current campaign finance law is beginning to take hold, but changes are necessary and there is room for improvement. Hearings will soon be held on some pending legislation in the Senate Commerce Committee. My own Rules Committee will probably hold some hearings a little later. I hope that through this process we will be able to improve upon the present law without undermining it.

I ask unanimous consent to have printed in the RECORD the text of the four bills along with a brief outline of their contents.

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

S. 1094

A bill to improve the regulation of Federal election campaign activities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Federal Election Campaign Act Amendments of 1973".

(b) Except as otherwise expressly provided, whenever in this Act a reference is made (by way of amendment, repeal, or otherwise) to a section, title, or other provision, the reference shall be considered to be made to a section, title, or other provision of the Federal Election Campaign Act of 1971.

ESTABLISHMENT OF A COMMISSION; CENTRAL CAMPAIGN COMMITTEE

SEC. 2. (a) Title III (relating to disclosure of Federal campaign funds) is amended by redesignating sections 308 through 311 as sections 311 through 314, respectively, and by inserting after section 307 the following new sections:

"ESTABLISHMENT OF COMMISSION

"SEC. 308. (a) There is hereby established, as an independent establishment of the executive branch of the Government of the United States, a commission to be known as the Federal Elections Commission, which shall be composed of 6 members, not more than 3 of whom shall be members of the same political party, who shall be chosen from among persons who, by reason of maturity, experience, and public service have attained a nationwide reputation for integrity, impartiality, and good judgment, are qualified to carry out the functions of the Commission and shall be appointed by the President, by and with the advice and consent of the Senate. Two of the original members shall be appointed for terms of 2 years, two for terms of 4 years, and two for terms of 6 years, beginning from the date of enactment of this Act, but their successors shall be appointed for terms of 6 years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission and one member to serve as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and 4 members thereof shall constitute a quorum.

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

"(e) Members of the Commission shall, while serving on the business of the Commission, be entitled to receive compensation at a rate fixed by the Director of the Office of Management and Budget but not in excess of $125 per day, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, included per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

"(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place.

"(g) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

"(h) The Commission shall appoint an Executive Director without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, to serve at the pleasure of the Commission. The Executive Director shall be responsible for the administrative operations of the Commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission. However, the Commission shall not delegate the making of regulations regarding elections to the Executive Director.

"(i) The Chairman of the Commission shall appoint and fix the compensation of such personnel as it is deemed necessary to fulfill the duties of the Commission in accordance with the provisions of title 5, United States Code.

"(j) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(k) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"POWERS OF COMMISSION

"SEC. 309. (a) The Commission shall have the power—

"(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

"(2) to administer oaths;

"(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

"(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

"(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

"(6) to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665 (b));

"(7) to initiate, prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the provisions of this title through its own legal representative; and

"(8) to delegate any of its functions or powers, other than the power to issue subpenas under paragraph (3), to any officer or employee of the Commission.

"(b) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

"(d)(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"CENTRAL CAMPAIGN COMMITTEES

"SEC. 310. (a) Each candidate shall designate one political committee as his central campaign committee. The central campaign committee shall receive all reports made by any other political committee accepting contributions or making expenditures for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his central campaign committee. No political committee may be designated as the central campaign committee of more than one candidate.

"(b) Notwithstanding any other provision of this title, each statement or report that a political committee is required to file with or furnish to the Commission under this title shall, if that political committee is not a central campaign committee, be furnished instead to the central campaign committee for the candidate on whose behalf that political committee is, or is established for the purpose of, accepting contributions or making expenditures.

"(c) Each political committee which is a central campaign committee shall receive all reports and statements filed with or furnished to it by other political committees, consolidate, and furnish the reports and statements to the Commission, together with its own reports and statements, in accordance with the provisions of this title and regulations prescribed by the Commission."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Executive Director, Federal Elections Commission."

(c) Upon the appointment of all the members of the Commission, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall meet with the Commission and arrange for the transfer, within 30 days after the date on which all such members are appointed, of all records, documents, memoranda, and other papers associated with carrying out their responsibilities under title III as it existed on the day before the date of enactment of this Act.

(d) Title III is amended by—

(1) amending section 301(g) (relating to definitions) to read as follows:

"(g) 'Commission' means the Federal Elections Commission;";

(2) striking out "supervisory officer" in section 302(d) and inserting "Commission";

(3) amending section 302(f) relating to organization of political committees) by—

(A) striking out "appropriate supervisory officer" in the quoted matter appearing in paragraph 1 and inserting "Federal Elections Commission",

(B) striking out "supervisory officer" in subparagraphs (A) and (B) of paragraph (2) and inserting "Commission",

(C) striking out "which has filed a report with him" in paragraph (2) (A) and inserting "which has filed, or for which a report has been filed by a central campaign committee, with it";

(4) amending section 303 (relating to registration of political committees; statements by—

(A) striking out "supervisory officer" each time it appears therein and inserting "Commission",

(B) striking out "he" in the second sentence of subsection (a) of such section and inserting "it", and

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

"(e) In the case of a political committee which is not a central campaign committee, reports and notifications required under this section to be filed with the Commission shall instead be filed with the appropriate central campaign committee, in accordance with regulations prescribed by the Commission under section 310.";

(5) amending section 304 (relating to reports by political committees and candidates) by—

(A) striking out "appropriate supervisory officer" and "him" in the first sentence thereof and inserting "Commission" and "it", respectively,

(B) striking out "supervisory officer" where it appears in the second sentence of subsection (a) and in paragraph (13) of subsection (b), and inserting "Commission", and

(C) adding at the end of subsection (a) the following new sentence: "Each treasurer of a political committee other than a central campaign committee shall file the reports required under this section with the appropriate central campaign committee, in accordance with regulations prescribed by the Commission under section 310.";

(6) striking out "supervisory officer" each place it appears in section 305 (relating to reports by others than political committees) and section 306 (relating to formal requirements respecting reports and statements) and inserting "Commission";

(7) striking out "Comptroller General of the United States" and "him" in section 307 (relating to reports on convention financing) and inserting "Federal Elections Commission" and "it", respectively;

(8) striking out "SUPERVISORY OFFICER" in the caption of section 311 (as redesignated by subsection (a) of this section) (relating to duties of the supervisory officer) and inserting "COMMISSION";

(9) striking out "supervisory officer" in section 311 (a) (as redesignated by subsection (a) of this section) the first time it appears and inserting "Commission";

(10) amending section 311 (a) (as redesignated by subsection (a) of this section) by—

(A) striking out "him" in paragraph (1) and inserting "it or a central campaign committee",

(B) striking out "him" in paragraph (4) and inserting "it", and

(C) striking out "he" each place it appears in paragraphs (7) and (9) and inserting "it";

(11) amending subsection (c) of section 311 (as redesignated by subsection (a) of this section) by—

(A) striking out "Comptroller General" each place it appears therein and inserting "Commission", and striking "his" in the second sentence of such subsection and inserting "its", and

(B) striking out the last sentence thereof;

(12) amending subsection (d)(1) of section 311 (as redesignated by subsection (a) of this section) by—

(A) striking out "supervisory officer" each place it appears therein and inserting "Commission",

(B) striking out "he" the first place it appears in the second sentence of such section and inserting "it", and

(C) striking out "The Attorney General on behalf of the United States" and inserting "The Commission or the Attorney General on behalf of the United States"; and

(13) striking out "a supervisory officer" in section 312(a) (as redesignated by subsection (a) of this section) (relating to statements filed with State officers) and inserting "the Commission".

(e) The Campaign Communications Reform Act is amended by striking out "Comptroller General" where it appears in paragraphs (3)(C), (4)(B), and (5) of section 104(a), and in section 105, and inserting in lieu thereof "Federal Elections Commission".

AMOUNTS TO BE REPORTED

SEC. 3. (a) Section 302 (relating to organization of political committees) is amended by—

(1) striking out "in excess of $100 in amount" in subsection (d) and inserting "of $100 or more"; and

(2) inserting "equals or" before "exceeds" in subsection (d).

(b) Section 304 (relating to reports by political committees and candidates) is amended by—

(1) striking out "$5,000" in subsection (a) and inserting "$2,500", and

(2) striking out "in excess of $100" each place it appears in subsection (b) and inserting "of $100 or more".

(c) Section 305 (relating to reports by others than political committees) is amended by striking out "in excess of $100" and inserting "of $100 or more".

(d) Section 311(a)(7) (as redesignated by section 2(a) of this Act) is amended by striking out "in excess of $100" and inserting "$100 or more".

TIME OF REPORTING

SEC. 4. (a) Section 302(f)(2) (relating to publication of annual reports) is amended by striking out "March 10" and inserting "April 10".

(b) Section 304(a) (relating to time of reports) is amended by—

(1) inserting "(1)" immediately after "Sec. 304. (a)",

(2) amending the second sentence thereof to read as follows: "Such reports shall be filed on the tenth day of April, July, and October in each year, and on the tenth day next preceding the date on which an election is held, and also by the thirty-first day of January.",

(3) striking "forty-eight hours" in the third sentence thereof and inserting "twenty-four hours", and

(4) adding at the end thereof the following new paragraph:

"(2) Upon a request made by a presidential candidate or a political committee which operates in more than one State, or upon its own motion, the Commission may waive the reporting dates (other than January 31) set forth in the second sentence of paragraph (1), and require instead that such a candidate or political committee file reports not less frequently than monthly. The Commission may not require a presidential candidate or a political committee operating in more than one State to file more than 11 reports (not counting any report to be filed on January 31) under the provisions of this paragraph during any calendar year. If the Commission acts on its own motion under this paragraph with respect to a candidate or a political committee, that candidate or committee may obtain judicial review in accordance with the provisions of chapter 7 of title 5, United States Code."

REPORTING OF COMPROMISED CAMPAIGN DEBTS

SEC. 5. Section 304(b)(12) (relating to reports by political committees and candidates) is amended to read as follows:

"(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the Commission may prescribe, including (notwithstanding the provisions of subsection (a) with respect to filing dates) continuous reporting of such debts after the election at such intervals as the Commission may require until such debts are extinguished, together with a statement as to the consideration for which any such debt is extinguished or a statement as to the circumstances and conditions under which any such debt is cancelled;".

REPORTS BY CERTAIN MEMBERSHIP ORGANIZATIONS

SEC. 6. Section 304(b) (relating to reports by political committees and candidates) is amended by redesignating paragraph (13) as (14) and by inserting after paragraph (12) the following new paragraph:

"(13) in the case of an organization whose principal activity is an activity other than attempting to influence the nomination for election, or election, of a candidate, the name and address (occupation and principal place of business, if any) of each member or partner, if the organization is a membership organization or a partnership, or of each director and officer, if the organization is a corporation; and".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Title III (relating to disclosure of Federal campaign funds) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 315. There are authorized to be appropriated to the Commission such sums as may be necessary for it to carry out its duties under this title."

S. 1095

A bill to amend the Communications Act of 1943 with respect to the application of the equal time provisions of section 315 to candidates for Federal elective office, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 315 (a) of the Communications Act of 1934 is amended by inserting", other than a candidate for Federal elective office (including the Vice Presidency)," after "any public office".

SEC. 2. (a) Section 102 (4) of the Campaign Communications Reform Act is amended by—

(1) striking "and", and

(2) inserting before the period the following:

", and (C) has public announced his candidacy for such office, or has knowledge or information that any other person or po-

litical committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contribution or making such expenditures".

(b) Section 315(f)(2) of the Communications Act of 1934 is amended by—

(1) striking "and"; and

(2) inserting before the period the following: ", and (C) has publicly announced his candidacy for such office, or has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures".

SEC. 3. The Federal Communications Commission shall study the effects of the amendments made by this Act, particularly with respect to the application of section 315 of the Communications Act of 1934 to circumstances arising in connection with campaigns for nomination for election, and campaigns for election, to Federal office at the elections held in November, 1974, and November, 1976. The Commission shall report to the Congress the results of its study, including its findings and conclusions, and any recommendations it may have—

(1) in a preliminary report submitted to the Congress not later than December 31, 1974, and covering the period beginning on the date of enactment of this Act and ending on November 30 of that year, and

(2) in a final report submitted to the Congress not later than December 31, 1976, and covering the period beginning on the date of enactment of this Act and ending on November 30 of that year.

S. 1096

A bill to provide for a campaign mail privilege for qualified candidates for Federal office.

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 "Campaign Mail Act".

SEC. 2. The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new title:

"TITLE V—CAMPAIGN MAIL

"DEFINITIONS

"SEC. 501. As used in this title—

"(1) 'Federal office' means the office of President, Senator, or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(2) 'major party candidate' means—

"(A) the legally qualified candidate of a political party whose candidate in the next preceding general election for the same Federal office received at least 30 percent of the total number of votes cast for all candidates for such office; or

"(B) any legally qualified candidate for election to a Federal office who is not affiliated with a political party and who was a candidate for the same office in the next preceding general election for such office and who received at least 30 percent of the total number of votes cast in such election for all candidates for such office;

"(3) 'minor party candidate' means any legally qualified candidate for election to Federal office who is not a major party candidate;

"(4) 'State' means each of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands;

"(5) 'campaign mail' means campaign literature mailed by a candidate for nomination for election, or election, to Federal office in connection with his campaign for nomination or election; and

"(6) 'voting age population' means resident population eighteen years of age and older, certified and published by the Secretary of Commerce as provided in section 503 (d).

"RATES

"SEC. 502. On and after the first day of January following the date of enactment of the Campaign Mail Act, campaign mail which is mailed in accordance with section 503 of this title and regulations promulgated by the Postal Service to carry out the provisions of this title (and the Postal Service is authorized to promulgate such regulations)—

"(1) shall be considered matter mailed by a qualified non-profit organization under section 4452(b) of title 39, United States Code, as such section existed on August 11, 1970; and

"(2) may be mailed at the same rates of postage that any such organization is authorized to mail matter under such section or section 3626 of such title, as enacted by section 2 of the Postal Reorganization Act.

"ELIGIBILITY

"SEC. 503. (a) A major party candidate in a general or special electon shall be eligible to mail a number of pieces of campaign mail equal to two times the voting age population of—

"(1) the State in which he seeks election, in the case of a candidate for election as Senator or as Delegate or Resident Commissioner to the Congress,

"(2) the district in which he seeks election, in the case of a candidate for election as a Member of the House of Representatives, or

"(3) any State in which he is a legally qualified candidate under State law, in the case of a candidate for election as President.

"(b) A minor party candidate in a general or special election shall be eligible to mail a number of pieces of campaign mail equal to the voting age population—

"(1) the State in which he seeks election, in the case of a candidate for election as Senator or as Delegate or Resident Commissioner to the Congress,

"(2) the district in which he seeks election, in the case of a candidate for election as a Member of the House of Representatives, or

"(3) any State in which he is a legally qualified candidate under State law, in the case of a candidate for election as President.

"(c) Any candidate for nominaton for election to Federal office shall be eligible to mail a number of pieces of campaign mail equal to—

"(1) two times the voting age population of—

"(A) the State in which he seeks such nomination, in the case of a major party candidate for nomination for election as Senator or as Delegate or Resident Commissioner to the Congress if the candidate secures the signatures of 5 percent of the eligible voters in that State,

"(B) the district in which he seeks such nomination, in the case of a major party candidate for nomination for election as a Member of the House of Representatives, if the candidate secures the signatures of 5 percent of the eligible voters in that district, or

"(C) any State in which he is a legally qualified candidate under State law, in the case of a major party candidate for nomination for election as President, if the candidate secures the signatures of 2 percent of the eligible voters in that State; or

"(2) the voting age population of—

"(A) the State in which he seeks such nomination, in the case of a minor party candidate for nomination for election as Senator, or as Delegate or Resident Commissioner to the Congress, if the candidate secures the signatures of 5 percent of the eligible voters in that State,

"(B) the district in which he seeks such nomination, in the case of a minor party candidate for nomination for election as a Member of the House of Representatives, if the candidate secures the signatures of 5 percent of the eligible voters in that district, or

"(C) any State in which he is a legally qualified candidate under State law, in the case of a minor party candidte for nomination for election as President, if the candidate secures the signatures of 2 percent of the eligible voters in that State.

"(d) Within 60 days after the date of enactment of this Act, and during the first week of January in 1974 and every subsequent year, the Secretary of Commerce shall certify to the Postal Service and publish in the Federal Register an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

"(e) The Postal Service is authorized to enter into agreements with State and local governments for the verification of signatures of eligible voters, and to reimburse such governments for the costs of such verification.

"MAILING AREA

"SEC. 504. A candidate shall be entitled to send campaign mail under the provisions of this title only to addressees located within the State or district with respect to which his eligibility is determined under section 503. A candidate for nomination for election, or for election, as President may not send campaign mail under the provisions of this title to addressees located in a particular State unless, and only to the extent that, he is eligible under section 503 to send campaign mail to addressees located in that State."

S. 1097

A bill to amend the Internal Revenue Code of 1954 to provide that political contributions are not subject to the gift tax

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) section 2503 (b) of the Internal Revenue Code of 1954 (relating to exclusions from gifts) is amended to read as follows:

"(b) EXCLUSIONS FROM GIFTS.—

"(1) In general.—In computing taxable gifts for the calendar quarter, in the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year 1971 and subsequent calendar years, $3,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of the calendar year shall not, for purposes of subsection (a), be included in the total amount of gifts made during such quarter. Where there has been a transfer to any person of a present interest in property, the possibility that such interest may be diminished by the exercise of a power shall be disregarded in applying this subsection, if no part of such interest will at any time pass to any other person.

"(2) Political contributions.—No part of a contribution to a political committe or organization, or to a legally qualified candidate for public elective office, for use in connection with that candidate's campaign for nomination for election, or election, to such office shall be consisted a gift for purposes of this chapter."

(b) The amendments made by this Act shall apply with respect to taxable years ending after the date of enactment of this Act or with respect to which the period for claiming a refund or credit for overpayment of taxes has not expired.

MAJOR POINTS IN CAMPAIGN REFORM BILLS

I. REPORTING AND DISCLOSURE

A. Creation of a 6 member Federal Elections Commission, appointed by the Presi-

dent, each member serving a 6 year term (subject to Senate confirmation). The Commission would have full legal powers (including subpoena) and would act as its own counsel in legal proceedings.

B. Every candidate would have a central campaign committee which would report for all of his various "subcommittees".

C. Reports would include contributions of $100 or more (current law says "in excess of $100").

D. $2,500-or-more contributions would be reported within 24 hours (current law says "$5,000/48 hours").

E. There would be only one ten-day preelection report (current law has two, at fifteen and five days).

II. BROADCASTING

A. The "equal time" requirements would be waived for *all* federal offices.

B. The definition of "legally qualified candidate" would be expanded to include those who have knowledge (without specifically disclaiming) that money is being raised or spent in his behalf.

III. CAMPAIGN MAIL

A. Candidates for all federal offices, in primaries and general elections, are eligible to send out specific amounts of political mail, at low rates (equal to rates paid by nonprofit organizations).

B. Major party and minor party candidates are protected, although major party candidates would be entitled to larger mailings.

C. Mail would be limited to the area in which the candidate is eligible for office.

IV. TAX ON POLITICAL CASH CONTRIBUTIONS

A. Exempt all cash contributions from the federal gift tax (current law taxes contributions in excess of $3,000).

REFORMING THE CAMPAIGN FINANCE LAWS

Mr. MATHIAS. Mr. President, on January 16, Senator STEVENSON and I introduced the full disclosure bill, a bill which attempts to change some of the prevailing public attitudes about federally elected officials which have become so dominant in the last decade—attitudes, which were particularly evident during the 1972 campaigns. Senate bill 397 provides for complete disclosure of the financial activities of Members of Congress. If enacted, we are confident it will assist the public in making realistic political judgments and contribute to restoring the needed confidence in the American political process.

In addition to taking the political pulse of the Nation, the 1972 elections witnessed the operation of a new comprehensive law aimed at regulating Federal elections. On February 7, 1972, the President signed into law the Campaign Reform Act of 1971. In this act, Congress for the first time in its history attempted to provide an effective means by which the public can adequately judge a candidate's campaign practices as opposed to the past practice of hiding the candidate's financial ties behind the officialdom of phoney committees and deceptive practices. The act provided, among other things, a systematic means for the candidate to disclose to the public the amount of political contributions and expenditures made during particular periods of the campaign.

My interest in creating an effective means to regulate Federal campaigns is well known in the Congress. Senator SCOTT and I on February 25, 1971, introduced Senate bill 956, a most comprehensive bill dealing with campaign practices. The majority of that bill is now contained in the present Campaign Reform Act along with 13 amendments which I offered to that bill when it was considered on the floor of the Senate. I was most happy to contribute to passage of this legislation, and it is with this same sincere interest that today, along with my distinguished colleagues, Senator SCOTT of Pennsylvania and Senator STEVENSON, I introduce the 1973 campaign reform amendments. These amendments reflect our collective judgment of the application of the existing act in the 1972 elections as well as the reintroduction of concepts which have previously been the subject of extensive congressional and public debate, but are felt once again to be important enough to warrant consideration.

It should be noted that for the sake of convenient committee assignments, we have introduced four separate bills. The major bill entitled "The Federal Campaign Election Act Amendments of 1973" with its nine categories and seven sections, deals exclusively with amendments to title III of the Federal Election Reform Act of 1971, while the other three bills deal with the separate subjects of: Amendments to the Internal Revenue Code; mailing privileges; and amendments to the Communications Act of 1934. I will now discuss each of the four bills.

I. THE FEDERAL CAMPAIGN ELECTION ACT AMENDMENTS OF 1973

Section 2. The establishment of an independent elections commission and a central campaign committee.

During the debate on the current Campaign Reform Act, a key issue was the manner in which the act was to be monitored and enforced. More fundamentally, the issue centered around the independence of the enforcement effort apart from the influence and control of Congress and the political process. Recognizing the critical need for effective and impartial enforcement, I supported an amendment which established an independent commission as a substitute to the committee's proposal and the now present arrangement of dividing the monitoring of the act between the Justice Department and the three supervisory offices—the Government Accounting Office, the Clerk of the House, and the Secretary of the Senate.

Under the existing law, all candidates for the Senate transmit their campaign reports directly to the Secretary of the Senate. In the case of Delegate or House races, all candidates are responsible to the Clerk of the House for filing reports. In Presidential races, this reporting responsibility is overseen by the Government Acounting Office. The GAO also acts as a national clearing house for information with respect to the administration of all Federal elections. The Justice Department is charged by the law with the responsibility of prosecuting any violation brought to its attention by any one of the three supervisory offices. Section 308(d)(1) of the law states in clear terms that the Justice Department "shall" institute a civil action in these cases. In other words, the Justice Department should have no opportunity to exercise its discretion in the case of providing civil remedies. However, in the case of criminal sanctions, it appears from section 308(a)(12) that the Justice Department has complete autonomy to decide whether or not it wants to prosecute. I am aware of one civil action commenced by Justice, and it is well documented that the Department has proceeded criminally on only a few violations in response to literally thousands of complaints from the three supervisory offices.

The problem of this tripartite arrangement was aptly summarized in testimony by Sam Hughes of GAO when testifying on December 5 before an Ad Hoc Committee on Congressional Reform chaired by Senator STEVENSON and I, when he said, with regard to the role of the Justice Department:

> The question . . . is whether any Attorney General of any party is in a position to go after the finance chairman of his boss' campaign committee, or for that matter whether he is really free to go after the finance chairman of the opposition party. He is not an unencumbered enforcement official, at least as I perceive it. I think that would be true no matter which party were majority party in the Congress and which party were represented in the White House.

Mr. John Gardner of Common Cause went on to say:

> It seems to me that that would be much less of a problem if we were not saddled with an extremely unfortunate tradition of a highly political Department of Justice.

With only one full-time attorney working in this campaign enforcement effort, it is little surprise that Justice has done so little. The need for an independent role is vividly apparent.

The amendment which we are today offering for consideration adopts the spirit of the Pearson amendment introduced during the last debate but goes one step further to assure complete independence of the enforcement effort. As submitted today, a six-member commission and staff will have plenary enforcement and monitoring powers in all Federal elections. All campaign reports now required under the act will be transmitted directly to the Commission for review. The Commission will decide whether a report or the operation of a particular campaign is in compliance with the law and, it, in turn, will have the authority to proceed on any violation. The Department of Justice will have no role whatsoever, except, of course, from the standpoint of technical advice. It is intended for the Commission to take the enforcement of the Campaign Reform Act out of the political arena and into the hands of an impartial professional staff.

The Commission's six members are to be chosen by the President with the advice and consent of the Senate. Not more than three can be members of the same political party. Section 309 of the proposed amendment clearly defines the Commission's duties and powers. It is given the power to investigate, subpena, administer oaths, prosecute, and other reasonable functions incidental to its objective of maintaining compliance of the 1972 act.

One of the purposes of the Commission

is to coordinate and centralize the reporting functions under the act. The creation of a "central campaign committee" can assist the Commission in this objective, and Section 31 contains such a proposal. Under present procedures, each political campaign committee raising or expending over $1,000 must transmit reports to its supervisory office. Each candidate may have more than one political committee and, in fact, the Federal gift tax regulations encourages the proliferation of committees. I will discuss this area later in my remarks. When the candidate does operate under numerous committees which accepts and spends contributions in his behalf, such an arrangement results in paperwork, redtape, and expense for everyone.

Section 310 of this proposed amendment creates the concept of the central campaign committee. While not outlawing or discouraging the creation of political committees, it does correct the reporting confusion produced by the present arrangement by consolidating each candidate's reports prior to transmittal to the supervisory officer or the Commission, as the case may be. This bill requires each candidate for Federal office to have a central campaign committee for the purpose of reporting all information as required under the act to the Commission as opposed to the many reports filed by each of the candidate's political committees. In operation, each one of the candidate's political committees would file its reports to the central campaign committee which, in turn, would forward the information to the Commission, thus making the route to the Commission direct and as coordinated as possible.

This proposal is identical to Amendment No. 279 which I offered during the 1971 debate. Most experts in the field consider this procedural change a crucial one from the standpoint of streamlining the operation of the current law.

Sections 3 and 4: Amounts to be reported and the times for reporting.

Under the present act, contributions "in excess of $100" must be reported to the supervisory officer by the treasurer of the political committee for review by the public. During the 1971 debate on this act, I felt that the "in excess" provision shielded a good number of $100 contributions from the public's view and as a result, I offered Amendment No. 284 to change the wording to "100 dollars or more." This amendment passed the Senate; however, it was deleted in the conference committee. Today, I offer the same amendment.

It would seem logical that a person would be more apt to give a contribution in the amount of $100 rather than $101, and if the objective of the law is to disclose to the public, contributions of the $100 level, we are defeating the purpose of the act by keeping this present language. I look forward to the GAO report which will detail the categories of contributions in order to determine how many $100 contributions during the 1972 elections avoided the public scrutiny.

Under the current act, financial statements are submitted on the 10th of March, June, and September and 5 and 15 days prior to a primary, special, or general election. Today, we offer an amendment which will change the reporting dates to the 10th of April, July, and October, and 10 days prior to the special, primary, or general election. The final report required by the act on January 31 remains unchanged.

The amendment is responding to complaints about the costly and cumbersome process of fulfilling the reporting requirements. By moving the monthly reports up one full month from March to April, we are assured of more accurate and timely accounting of campaign expenses. And by combining the 5- and 15-day reports prior to the election to one report 10 days prior to the election, we would be alleviating many of the redtape complaints.

These sections makes two additional, important changes with regard to reporting. First, it requires the reporting of contributions within the last 10-day period of $2,500 or more to the Commission or the Supervisory Office as the case may be, within 24 hours of receipt as compared to the present $5,000 cutoff point. This proposed change provides another reason for excluding one of the two final preelection reports; it also discourages last-minute large contributions. Second, these sections respond to the problem of an organization which gives money to candidates in more than one State.

Under the present act, a political committee must file reports to its supervisory officer 5- and 10-days prior to a general, primary, or special election—under these proposed amendments, they would report only 10 days prior to the election to the Commission. It is not inconceivable for one political committee engaged in campaigns in more than one State, to be required to file as frequently as three or four times during one particular week—causing innumerable hardships and expenses. The amendment which we offer today permits the Commission to waive the reporting dates for these multi-State committees with the proviso that they cannot require the filing of reports less frequently than once a month. Such a waiver could come from either the particular interstate committee, the candidate—in the case of a Presidential candidate—or upon the Commission's own initiative.

Section 5. Compromising a debt.

Section 304 of the current law provides that all debts are to be reported until they are extinguished; however, the means or the consideration by which they are extinguished are not reported. Under the law, one can forgive a debt or pay token consideration for its satisfaction, and the report will only indicate that the debt was satisfied or extinguished. Section 5 requires that when the debt is canceled, that the report indicate the amount of money or consideration for which the debt was extinguished or a statement as to the circumtances under which the debt was canceled.

The purpose of this amendment is to assure that the candidate's financial reports accurately reflect the character of every contribution and the purpose of every expenditure. I offered amendment No. 278 during the 1971 debate on this act which had a similar objective.

Section 6. Reports by certain member organizations.

With every technical piece of legislation, one is apt to encounter technical loopholes. We have identified one.

The loophole occurs when an organization like an investment club or some organization not organized for the purpose of influencing an election, uses some part of its dues to influence the outcome of an election. Under such circumstances, if the organization collects or spends over a thousand dollars, it qualifies as a political committee and, thus, must report to its supervisory officer. In such a case, however, the dues-paving member is shielded from the public view. In other words, if an established social club—or one established to circumvent the law—diverts some of its regular—or irregular—dues for the purpose of getting Mr. X elected to Federal office, the club, if it spent over $1,000, would file as a political committee; however, as a committee, it would be required only to file the names of its officers. It would not be required to disclose the names of the members of the organization who have paid the dues which eventually became a contribution for Mr. X. The only possible section which would outlaw such a shield it seems to us, would be section 301 which prevents the giving of money in the name of another. This is the provision which is supposed to prevent the pass-through donation. But like most pass-through gifts, enforcement is virtually impossible. Section 6 corrects this loophole by requiring the reporting of names and addresses of members of a non-political committee which attempts to influence the outcome of an election.

Let me speak for a moment on the general subject of "pass-through" donations. This is a serious problem and it deserves more than a passing comment.

THE PROBLEM OF PASS-THROUGH DONATIONS

Though no legislation is now being offered to correct this particular problem, I feel it is important at least to discuss the ways in which we feel the problem can be remedied.

The problem occurs when a donor gives to another—either a political committee or another person—under the act, when a person gives or accepts more than $1,000, he becomes a political committee—and this immediate recipient in turn gives the donation to a candidate's political committee according to the wishes of the original donor. This method of giving results in the original donor being shielded from a relationship with the candidate who ultimately receives and spends the money. The intermediary step passes through the original. What is reported and disclosed in these cases is that first, the original donor gave to "X" or X's political committee and second, that the political committee gave the donation to "X" candidate.

Although the most common example of this practice occurs when a national political organization or committee receives a donation under the instructions to give it to candidate "X", a more

sophisticated use of this evasion occurs when a donor gives to a person outside the country and this person, in turn, gives the money to a recognized domestic political committee representing a particular candidate. Of course, the evasion can take place anytime a donor uses another or a series of persons to shield his contribution.

This practice is a violation of law; section 301 prohibits the giving of a contribution in the name of another. After much thought, it was concluded that a legislative remedy is impractical—except, of course, to impractically outlaw political committees or to prevent the fugibility of donations over a certain amount. A better remedy to this problem, we feel, is the establishment of a strong independent Commission with effective enforcement and monitoring capabilities. We want to alert the Congress to this problem and offer the creation of the Commission as one means of solving it.

Section 7. Additional appropriations are authorized to carry out the additional purposes of this act.

II. AMENDMENT TO THE COMMUNICATIONS ACT 1934

Section 2. Definition of candidate.

During the 1971 debate, I offered amendment No. 271 which was subsequently narrowly rejected by rollcall vote. The amendment called for a new definition of the term "candidate" as it applies to the act. We now reintroduce that amendment to title I of the act and once again will ask the Senate to reconsider its merits.

The definition of the term "candidate" is particularly significant in title I of the act for it triggers the media spending limitations for the candidate. In title I of the current law a "legally qualified candidate" is one who first, meets the qualifications prescribed by the applicable laws to hold the Federal elective office and second, is eligible under applicable State law. This narrow definition is contrary to the more inclusive definition contained in titles II and III where a candidate is defined in terms of accepting contributions or expending money to influence one's candidacy or having the knowledge of another doing same. To contain a more narrow definition applicable to spending limitations than to the title's dealing with criminal sanctions with reporting and disclosure, seems inconsistent and contrary to the objectives of the act. Furthermore, the FCC contains a definition of a "candidate" which is broader in scope than the one contained in title I and one which is equal in scope at least to the one contained in titles II and III. It could be argued quite persuasively, I think, that the new legislative definition would pre-empt any regulatory one. It is also perplexing that title II contains a similar definition to that contained in title III, for it is here in title II that the act contains the other spending prohibition—that is, the prohibition of a candidate contributing to his own election beyond certain prescribed amounts.

The narrow definition in title I permits unlimited spending during a time when a candidate might be a candidate in every way except formality. Under the definition contained in title I, a candidate can meet the first criteria of qualifying under Federal law, say, in the case of a Senate election, by merely being 30 years of age and a natural born citizen. The second criteria of qualifying under applicable State law varies, of course, from State to State; however, in some States, it is the responsibility of the candidate to file a petition followed by a period of grace when the petition is considered by State authorities. In this latter case, we encounter the most obvious example of permitting the candidate to have a "Roman carnival." During this interim period, he may spend what he wants without any statutory limitations, and only when the State acknowledges the petition and the candidate is registered does he formally come within the purview of the statute.

However, the point is that in this definition, the criteria requires only affirmative action therefore permitting the candidate to be a passive, unannounced, or informal candidate for any period of time—accepting and spending contributions given to influence his candidacy without regard to any spending limitations. Because of the inconsistent coverage in titles I and III of the act, it would not seem improbable for a candidate, during this unrestrained period, to be required to file reports under title III.

Certainly the application of the law should commence at the first act of candidacy or the last act of noncandidacy. Clearly, however, this definition permits one to act like a candidate in the eyes of the public and, at the same time, hide behind the cloak of loose legislative draftsmanship. Obviously, if all States allowed writein candidates, it could be argued that the problem would not exist for then the candidate, by his mere presence, would, as a matter of law, have qualified under State law; however, this is obviously not the case.

The amendment which we are offering today would add a new and third criteria to this title I defintion of "legally qualified candidate." The new addition would cover the candidate who has publicly announced, or has knowledge that another person or political committee has received contributions or made expenditures in behalf of his candidacy. This addition would restore the public's right to know what the candidate is spending once he begins to act and function like a candidate for Federal office.

Section 3. Equal time clause.

Section 11 repeals the equal time clause of the broadcast law for all Federal elections. Accompanying this repeal is the proposed creation of a study commission to review the repeal of the law. The Commission will report back to the Congress in December of 1974 and 1976 after the respective congressional and presidential races. This section is similiar to one contained in Senate bill S. 956 as introduced by Senator SCOTT and I. The reasons for the need of such an amendment have been discussed many times on the Senate floor and need not be discussed at length at this time. The need for the repeal of the equal time clause relates to the need of "fairness" and "accountability" which is in the general spirit of underlining the broadcast law.

IV. THE CAMPAIGN MAIL ACT

As contained in previous campaign reform bill introduced by Senator SCOTT and myself, we are once again offering for consideration a bill which would provide limited franking privileges for all candidates for Federal office. This bill is similar to the bill contained in Senate bill S. 956 as well as amendment No. 291 offered during the 1971 debate. Although there has been much debate on the need for such a privilege on the floor of the Senate, the last congressional hearing on the subject of franking privilege occurred in 1966. I am told that the House has scheduled hearings for this month. I am glad to see this development. We have clearly waited too long, and the time is ripe for congressional action.

The creation of such a privilege will provide the public with better exposure to all the candidates and, thus, elect officials who are more responsive to the public interest. It will go a long way in undoing the great advantage which an incumbent has over a challenger, and, more than anything else, the passage of such a bill would indicate to the public that we, in Congress, are interested in fair play. It will tell them that we do not feel like we "own" any office and, like every other elected public servant, we are always compared to our opponent and subject to the public's approval.

This proposed act provides a franking privilege for candidates in Federal, general, special, and primary elections. The amount of free mail depends upon whether one is a major or minor party candidate. A major party candidate is one whose candidate in the preceding general election for the same Federal office received at least 30 percent of the total number of votes cast. A minor party candidate is defined as one which is not a major party candidate. A major party candidate is entitled to mailing privileges in any general or special election equal to two times the number of eligible voters in the jurisdiction in which the candidate is running; however, in order to receive the same privilege in any primary, he must obtain, if it is an election for the Senate or the House, the signatures of 5 percent of the eligible voters in the State or district in which he runs for election. In the case of a Presidential race, he must obtain the signatures of 2 percent of the eligible voters in the State in which he wants the mailing privilege to apply. In the case of a minor party candidate in general, special, and primary elections, he is entitled to mailings equal to one times the number of eligible voters in the jurisdiction which he is running; however, in the primary, the same percentage of signatures must be obtained by the minor party candidate to afford himself of the primary mailings in any of the above mentioned Federal elections.

IV. AMENDMENTS TO THE INTERNAL REVENUE CODE

EXEMPTION OF POLITICAL CONTRIBUTIONS FROM THE FEDERAL GIFT TAX

Under the present tax rules, a political contribution over $3,000 is subject to a Federal gift tax. As I have previously

mentioned, that rule has been systematically circumvented by the creation of numerous political committees. As a result, a donor who wishes to contribute more than $3,000 to any particular candidate can give less than this amount—any number of times—to numerous political committees. This overt evasion of the law creates a situation as in the Corrupt Practices Act where the law is being consciously violated at the expense of the credibility of the entire Federal effort.

Section 10 exempts political contributions from the Federal gift tax. This, in my mind, is in keeping with the general spirit of the law which encourages voluntary disclosure while not discouraging large contributions. Furthermore, it is absolutely essential that we no not create another feeble Corrupt Practices Act; we need respect for this law. The present act with this particular circumvention clouds and colors the entire act. Of course, an alternative to this suggestion would be to outlaw political committees, an alternative which, in my mind, is entirely unworkable.

By Mr. BIBLE (for himself, Mr. ABOUREZK, Mr. BEALL, Mr. BURDICK, Mr. CANNON, Mr. EAGLETON, Mr. EASTLAND, Mr. GURNEY, Mr. HOLLINGS, Mr. KENNEDY, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MOSS, Mr. NELSON, Mr. PASTORE, Mr. RANDOLPH, Mr. SCOTT of Virginia, Mr. SPARKMAN, and Mr. WILLIAMS):

S. 1098. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business. Referred to the Committee on Finance.

SMALL BUSINESS TAX SIMPLIFICATION AND REFORM ACT OF 1973

Mr. BIBLE. Mr. President, as chairman of the Select Committee on Small Business, I introduce for appropriate reference a bill entitled "the Small Business Tax Simplification and Reform Act of 1973," a comprehensive attempt to reform our tax laws and thereby provide greater benefits for small businesses everywhere. I request unanimous consent that there be printed in the RECORD at the conclusion of my remarks a section-by-section analysis of the bill together with language changes we have made in our bill today as compared with comparable legislation before the Senate (S. 1615) in the 92d Congress.

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

(See exhibit 1.)

Mr. BIBLE. Mr. President, the present tax system is strangling small business and free enterprise in this country. Large business pays taxes at lower rates than all but the smallest firms. New companies are smothered under tax and paperwork burdens. In short, our present tax system is discouraging the enterprise that made America a great economic power. This bill is a serious, studied effort to do something about this situation.

COMPANION HOUSE BILL INTRODUCED BY REPRESENTATIVE JOE L. EVINS

As a key phase of our cooperative effort to benefit the hard-pressed small businessman nationally in what may well be a tax reform-minded Congress, my distinguished colleague from Tennessee (Mr. EVINS), chairman of the House Select Committee on Small Business, has again graciously offered to serve as the chief sponsor of the bill in the other body. I am advised his introduction of a companion bill with representative cosponsorship will take place today as we again pursue our goal of helping the small businessman where he is hurting the most—in his tax-paying pocketbook.

BIPARTISAN SUPPORT

We are particularly pleased at the bipartisan support of this bill in this body by the Senators who are cosponsoring this bill: Senators JAMES ABOUREZK (Democrat of South Dakota), J. GLENN BEALL (Republican of Maryland), QUENTIN N. BURDICK (Democrat of North Dakota), HOWARD W. CANNON(Democrat of Nevada), THOMAS F. EAGLETON (Democrat of Missouri), JAMES O. EASTLAND (Democrat of Mississippi), EDWARD J. GURNEY (Republican of Florida), ERNEST F. HOLLINGS (Democrat of South Carolina), EDWARD M. KENNEDY (Democrat of Massachusetts), GEORGE MCGOVERN (Democrat of South Dakota), THOMAS J. MCINTYRE (Democrat of New Hampshire), FRANK E. MOSS (Democrat of Utah), GAYLORD NELSON (Democrat of Wisconsin), JOHN O. PASTORE (Democrat of Rhode Island), JENNINGS RANDOLPH (Democrat of West Virginia), WILLIAM L. SCOTT (Republican of Virginia), JOHN SPARKMAN (Democrat of Alabama), and HARRISON A. WILLIAMS Democrat of New Jersey). Likewise, we are pleased with brood cosponsorship and support in the other body.

We do not claim that we have final answers to all small business tax problems, but we do believe we have a meaningful proposal which can be used as a rallying point for those of us committed to securing realistic help for the small businessman who is being squeezed tighter by big government and by big business.

During the 92d Congress, almost 2 dozen Senators and over 100 members of the other body of both major parties were listed as cosponsors or expressed their support of the Bible-Evins bill by letter. Taking the next step in the 93d Congress—serious consideration of this bill by the House and Senate—can open the door to tax equity for the 97½ percent of firms in this country which are new, small, family, local, and independent business.

TAX SYSTEM NOW DISCOURAGING ENTERPRISE

As we have said repeatedly since 1970, the present tax system places disproportionate burdens on these small businesses. We, sponsors of this small business tax reform bill, do not claim this proposal will cure all of the problems or that it is a perfect piece of legislation. We do regard it as a basic framework from which to build toward meaningful tax reform for nearly 12 million small business owners, their families, and their employees.

In recognition of this fact, we have made major efforts since 1967 to learn the problems and the views of small business associations, legal, tax, and accounting organizations and individual firms, and to make their good suggestions part of this bill. Some 3 dozen national, regional, and statewide groups have been consulted in this process.

The focus of these efforts has been the Select Committee on Small Business as it was in 1958, when the only other major small business tax bill was considered and passed by the Congress. Many other Senators and members of Congress have been concerned with these issues. I will mention the distinguished Senator from Utah (Mr. BENNETT) who introduced the administration's small business tax bill in 1971 and the distinguished Senator from Nebraska (Mr. CURTIS) who has stood up for small business within the Finance Committee. The Senator from Alabama (Mr. SPARKMAN) has been in this fight nearly every year. Many members of the other body are joining Representative EVINS in speaking out on this question.

We have tried to take that responsibility to heart. There are many diverse segments making up the small business community. We realize that retailers and manufacturers may have different financial and tax problems and therefore different ideas in the tax field. New businesses do not share the same outlook as long-established ones.

We also recognize that certain State governments would prefer the system of taxing business which they have developed and tested. My own State of Nevada, for instance, feels this way to some extent, and I strongly feel that Nevada and all other States should have an opportunity to express their views fully during the legislative process so that the rules on State taxation of interstate commerce will come as clear as humanly possible to accommodate my State without imposing undue burdens on smaller businesses elsewhere.

THIS BILL IS A FRAMEWORK FOR CONSIDERATION OF VARIED SMALL BUSINESS TAX NEEDS

My point is that the bill we introduce today is put forward as a seed from which small business tax reform can spring. Certainly, there should be a comprehensive examination of the plight of all the various segments of the small business community which our committee has a duty to represent. This we have tried to do. From the time of introduction, however, the shaping of the final legislative product becomes the responsibility of the tax-writing committees of the House and Senate, and the full House and Senate. The Constitution provides that all revenue measures such as this "originate" in the House of Representatives. The Ways and Means Committee of that body has the power and the expertise to accommodate small business interests to the larger administration of the internal revenue system and to refine individual proposals in this bill.

OPPORTUNITY PRESENTED BY CURRENT TAX REFORM HEARINGS

It is well known that questions of small business equity have not received their share of attention over the years. In both the 1969 and 1971 tax acts, small business received substantial setbacks.

However, the climate in this 93d Congress is different because of the commit-

ment of the distinguished chairman of the House Ways and Means Committee (Mr. MILLS) to tax reform. There is now an opportunity to make up the setbacks of past years. I am referring to the landmark series of hearings on tax reform which began on February 5. Not since 1959 has there been an inquiry of such depth and breadth into the many-sided issues of tax equity. Panels of experts have been available for questioning by Ways and Means Committee members and by each other. In my opinion, everyone who is seeking responsible solutions to the Nation's fiscal problems owes a debt of gratitude to Chairman MILLS for the leadership which he has again exercised in an effort to reform the tax law and the way his committee is tackling this job.

There has already been testimony before that committee that small firms and family enterprises have been disadvantaged by recent tax legislation. Witnesses have stated that in the aggregate the small business community does not appear to be a significant part of the tax problem. For instance, as to the taxation of capital gains, Prof. Richard A. Musgrave of Harvard University stated that the small firms represented perhaps 5 percent of the capital gains tax base and deserve well-considered treatment which would allow them to stay in business so that our tax law could proceed to deal equitably with the other 95 percent of the capital gains tax base.

This testimony highlights the greatest problem of small business generally in the tax field. Because they are not large factors in the aggregate figures, and because they are not as well represented in Washington as big business, small enterprise tends to be largely ignored.

However, my pledge to the small business community is that I will do all I can to see that they are not ignored in the quest for tax reform in the 93d Congress. Already a letter has been written to the chairman of the Ways and Means Committee urging that small business tax reform be considered this year.

Further, I have asked to make a joint appearance with the distinguished chairman of the House Small Business Committee (Mr. EVINS) before that committee to focus its attention on the unique tax problems of new and small business. It is my hope to bring home to the tax-writing committees and to other Members of Congress that the problems created for small enterprise by the tax system are serious and too often fatal.

EFFECTIVE TAX RATES

It is just beginning to become known that big business pays a lower rate of taxes than small business, as shown in the following table drawn from U.S. Government figures:

Asset size	Profit rate [1]	Rate of profit after taxes	Percent decline [2]
All manufacturing corporations	16.5	9.675	41.36
Under $1 million	4.975	7.30	51.25
$1 to $5 million	17.375	8.575	50.64
$5 to $10 million	18.075	8.70	51.86
$10 to $25 million	16.325	7.95	51.30
$25 to $50 million	15.875	7.825	50.70
$50 to $100 million	16.075	8.225	48.83
$100 to $250 million	17.20	9.275	46.07
$250 to $1,000 million	17.675	9.85	44.27
$1,000 million and over	16.00	10.375	35.15

[1] Profit rate based on percent of stockholders equity before Federal taxes.

[2] Percent decline in profits resulting from taxes or "effective tax rate."

Note: Federal Trade Commission, "Quarterly Financial Report," 4th quarter, 1971, p. 11, table 5.

Thus, small- and medium-sized businesses pay tax at about 50 or 51 percent of their income while the largest firms pay at about 35 percent.

Prof. Stanley Surrey of Harvard Law School, in his Ways and Means Committee testimony, has referred to the 35-percent tax rate by big business; and Representative VANIK, who has made a continuing study of these matters, stated recently that the largest 4,348 corporations have an effective tax rate of only 26.9 percent.

It may thus be hard to believe, but it is true that the biggest U.S. corporations as a class pay taxes at half the rates of those paid by small- and medium-sized businesses as a class. It seems to me that this penalty tax against small business is economically unsound and morally unfair.

HANDICAPS UPON NEW BUSINESS

Furthermore, businesses opening their doors in 1933 faced an initial tax rate of 13½ percent. In 1973, new firms are immediately hit with a 22-percent Federal tax. The tax rate for these fledgling businesses rises steeply to 48 percent as soon as the firm reaches $25,000 in earnings—or $500 a week. A firm earning $50 million a week is subject to the same 48-percent rate, but the statistics show that the bigger the firms, the more successful they are in avoiding taxes.

Proliferating tax and government reporting requirements impose an additional burden on other new firms. Our committee has determined that a new family restaurant business must spend about $820 in accounting fees to fill out the forms required during its first year whether or not it makes a dime of profit.

Thus, new enterprise is not getting an even break in America in the 1970's. It faces extra burdens. It is safe to say that enterprise is being discouraged by this tax system and that small enterprise is being penalized compared to big business.

My estimate of the Revenue Act of 1971 was that 40 percent of the $11½ billion in annual tax benefits in that bill were funneled to less than 400 of the Nation's largest corporations. It seems to me that the Revenue Act of 1971 piled new tax favoritism for the rich businesses on top of the existing top-heavy system.

LONG-TERM EFFECTS OF TAX DISCRIMINATION

If this tax system remains unaltered by the Congress for any length of time, it is reasonable to predict that thousands of long-existing valuable firms may be forced to close their doors and the thousands of new enterprises will never see the light of day. Not only will owners and employees suffer, but so will neighborhoods and communities. Ultimately, it is the quality of life as well as the economy of the Nation that is suffering.

We might expect that economic power under the present system will become increasingly concentrated to a small group of giant corporations and financial institutions. President Franklin Roosevelt once expressed the fear in that free enterprise was being replaced by "corporate enterprise." From my observations, President Roosevelt's fears are being realized.

The free enterprise is what has made the Nation great. Our current balance-of-payments' performance may be a signal that this engine of economic advance has been throttled down by a tax system which burdens most those businesses that can afford it least.

POSSIBILITY OF REVERSING THE TRENDS

The Congress has a historic opportunity to do something about these inequities this year and next year. Action can be taken to eliminate or at least mitigate the discrimination against new, small, family, local, and independent business enterprises. We can start the process of true reform and relief on behalf of the 97½ percent of less-advantaged businesses in this country. The sponsors of the small business tax simplification and reform bill will be doing everything we can to advance our proposals and meritorious small business tax proposals of other Members of Congress in order to make 1973–74 the time of meaningful tax reform for small business.

Mr. President with reference to the detailed provisions of this bill, it includes more than 3 dozen sections and upward of 40 proposals for change. These sections are grouped in eight chapters, logically related to each other as well as the life cycle of a small and growing business.

SPECIFIC RECOMMENDATIONS

In brief the bill provides for:

First. Permanent Government and small business advisory machinery for simplifying tax laws and tax forms;

Second. Lower tax rates for smaller business, and particularly new business;

Third. Promoting the growth of new and small firms by liberalizing first-year depreciation, and increasing permissible accumulation of earnings;

Fourth. Easing the raising of capital by providing more equitable treatment for possible losses through loans or stock purchases, and allowing tax benefits for the floating of securities issues;

Fifth. Making subchapter S closely held corporations more flexible and less dangerous to use; and

Sixth. Encouraging the continued independence of family firms by making it easier to pay estate taxes based on business interests over a 10-year period.

The bill as I introduce it today contains five changes from the 92d Congress version (S. 1615) as follows:

First. Section 104 of the 1973 bill—relating to studies of small business tax matters—has been modified to reflect the reenactment of the investment tax credit. It specifies that the study of capital allowances previously called for should take account of the investment credit as it relates to special small business needs.

Second. Section 108 is new; it proposes

that persons invited to consult with the Internal Revenue Service regarding the simplification and improvement of the Internal Revenue Code or its administration, including tax forms, be provided with reimbursement for travel and per diem expenses; and that the Treasury and the IRS should give consideration to the views of representatives of small business in this process.

Third. Section 301 relating to new businesses has been modified to reduce the amount of income a new business may earn free of Federal tax from $1 million per year to $25,000 per year for each of the first 3 years. A new, growing business might also defer its tax on the next $75,000 of income for 10 years, providing earnings are reinvested in the business and subject to recapture in the ensuing 10-year period. This section has also been further tightened to preclude from eligibility any company receiving a direct, participation or guaranteed business loan under section 7(a) of the Small Business Act.

Fourth. Section 403 of S. 1615 has been dropped because of the 1971 enactment of the investment credit which was proposed as to small business by that section of the bill. As mentioned above, section 104 is intended to focus attention upon the practical effects of this provision, as enacted, upon capital formation by new, small and independent businesses. The remaining subsections of title IV of the bill have been renumbered accordingly.

Fifth. Section 402 has been modified to delete the portion elevating depreciation guidelines to statutory status, since this was accomplished by the Revenue Act of 1971.

Mr. President, in conclusion may I invite other Members of the Senate who are interested in the small businessman's tax problems to join as cosponsors of this bill and as colleagues in this effort.

EXHIBIT 1

SECTION-BY-SECTION ANALYSIS OF THE SMALL BUSINESS TAX SIMPLICATION AND REFORM BILL

OVERALL ANALYSIS

The Small Business Tax Simplification and Reform Act of 1973 is the successor bill to S. 4039, introduced in the 91st Congress on June 30, 1970, and S. 1615 (H.R. 7692), submitted to the 92nd Congress on April 22, 1971.

It is designed to present a comprehensive set of proposals for tax relief, affecting each stage of the life cycle of new, small, and growing and matured businesses.

REVENUE BALANCE

Extensive efforts have been made to present this legislation as balanced in the revenue sense, with slight, immediate, and long-term increases of tax revenues through minimally higher normal tax rates on giant corporations, and the cultivation of vigorous new small enterprises which will enlarge the tax base in the future.

Even for the largest corporations, the statutory rates under this proposal would remain below the surtaxed corporate rates of the 1960's while the effective rates for these corporations would continue to remain far below the effective rates paid by smaller and medium-sized companies.

The revenue gains made possible by the rescaling of normal rates would make it possible to shift a small fraction of the corporate tax (about 1 percent) on the basis of the ability to pay. Corporations with earnings in excess of $1 million per year would be yielding commensurate benefits to new enterprise, small existing family and independent business, and firms willing to modernize to meet the terms of national and international competition.

Because of the enactment of the investment tax credit in 1971, which was previously a part of this bill, it is believed that the 1973 bill will result in a revenue gain of about $300 million.

TAX SIMPLIFICATION AND REFORM

To focus continuing professional attention on tax simplication, the bill also proposes institutional arrangements by way of 1) a standing intergovernmental committee on tax simplification, 2) a Business Advisory Council on which the small business community would be assured a significant voice, and 3) creation of an Office of Small Business Tax Analyst within the Treasury Department.

Several major studies of small business tax issues are requested so as to lay a basis for orderly simplification of the total internal revenue system as it applies to smaller firms.

ORGANIZATION OF THE BILL

This bill consists of 39 substantive sections grouped into 8 chapters, as follows:

TITLE I—TAX SIMPLIFICATION RELATING TO SMALL BUSINESS

Sec. 101. Intragovernmental committee on tax simplification for small business.
Sec. 102. Treasury Department small business tax analyst.
Sec. 103. New Internal Revenue Code chapter on small business.
Sec. 104. Revision of depreciation policy.
Sec. 105. Equalization of treatment of fringe benefits as between incorporated and unincorporated small businesses.
Sec. 106. Special study of differential effect of tax law changes on businesses of varying sizes.
Sec. 107. Frequency of collection of certain employment and excise taxes.
Sec. 108. Consultation with Treasury Department by small business representatives; reimbursement of expenses.

TITLE II—ADJUSTMENT OF CORPORATE NORMAL TAX

Sec. 201. Corporate normal tax rates.

TITLE III—SPECIAL PROVISIONS TO ENCOURAGE ESTABLISHMENT OF NEW SMALL BUSINESS ENTERPRISES

Sec. 301. Exemption of $25,000 of net operating income of new small business corporations for first 3 years.
Sec. 302. Deduction of organizational expenses of partnership.
Sec. 303. Bad debt deduction for guarantors of obligations of, and lenders to, small business corporations.
Sec. 304. Losses on small business stock.
Sec. 305. Patronage benefits for qualified new community development cooperatives.

TITLE IV—PROVISIONS TO ASSIST SMALL BUSINESS GROWTH

Sec. 401. Increase in additional first-year depreciation allowance.
Sec. 402. Elimination of reserve ratio test for small business.
Sec. 403. 10-year carryover of small business net operating losses.
Sec. 404. Accumulated earnings tax.
Sec. 405. Amortization of expenditures incident to issuance of stock.
Sec. 406. Period for amortization of research and experimental expenditures.
Sec. 407. Multiple surtax exemptions for certain small business corporations under single family control.

TITLE V—PROVISIONS RELATING TO PARTNERSHIPS

Sec. 501. Guaranteed payments from partnership to partner.
Sec. 502. Closing to taxable year of partnership on death of partner.
Sec. 503. Termination of partnership.
Sec. 504. Limitation on partner's distributive share of losses.

TITLE VI—PROVISIONS RELATING TO "SUBCHAPTER S" CORPORATIONS

Sec. 601. Increasing number of permissible shareholders.
Sec. 602. Broadening classes of permissible shareholders.
Sec. 603. Termination of election by majority.
Sec. 604. Termination of election—passive investment income.
Sec. 605. Termination of election—inadvertence.
Sec. 606. Carryover of disallowed deductions for corporation's net operating loss.

TITLE VII—BUSINESS DEVELOPMENT CORPORATIONS

Sec. 701. Reserves for losses on loans of business development corporations.
Sec. 702. Nonrecurring income of nonprofit local business development corporations.

TITLE VIII—PRESERVATION OF SMALL BUSINESS INDEPENDENCE

Sec. 801. Refunds of overpayments of estimated income tax before end of taxable year.
Sec. 802. Debt-financed corporate acquisitions.
Sec. 803. Valuation of unlisted securities for estate tax purposes.
Sec. 804. Extensions of time for paying estate tax.
Sec. 805. Amalgamation of interests in closely held businesses for estate tax purposes.
Sec. 806. Study and recommendations by Treasury Department with respect to preservation of independent small business.

SECTION-BY-SECTION ANALYSIS

TITLE I—TAX SIMPLIFICATION

Sec. 101. Intragovernmental Committee on Tax Simplification for Small Business: The first substantive section creates a permanent standing committee of the Federal Government for the purpose of devoting continued attention to the simplification of the internal revenue system—including the Code, the regulations, instructions, procedures, and other publications relating to business taxation.

The membership of the Committee would include: representatives of the Secretary of the Treasury (for policy matters): Internal Revenue Service (for technical matters); Bureau of the Budget (for coordinating the paperwork aspects of IRS forms, in view of the Federal Reports Act) and the Small Business Administration to express the interests of the small business community.

The Committee would provide a forum for regular and periodic contact between the various Federal agencies concerned and the businessmen affected with sufficient formality to engage the attention of the press, the public, and the Congress. The proposed Advisory Council is intended to provide for an effective voice for small business by containing a delegation large enough to reflect the diversity of interests of small enterprise.

Sec. 102. Office of Small Business Tax Analysis at the Treasury Department: S. 4029 proposed a position of Small Business Tax Analyst, which would be one official in the Treasury Department responsible for looking at tax problems primarily from the view of small business and the free enterprise system rather than the Government's interest in raising revenue. The 1971 and 1973 bills would enhance this concept by constituting this function as an "Office of Small Business Tax Analysis" of which the Small Business Tax Analyst would be a part.

Such an office could provide a focus for assisting in the studies and reports proposed in this Act. Beyond this, a small business tax analyst could supply a continuity of effort required to assess the difficult and multifaceted problems raised by the impact of

Federal, State, and local taxation on small business competition, and the free enterprise system.

Sec. 103. Internal Revenue Code Chapter on New and Small Business: The present Internal Revenue Code of 1954, organized mainly by subject matter, does contain Subchapter S on one type of small business corporation. This section would have the Treasury consider a special title or chapter of the Code which consolidated and referenced those tax provisions relating particularly to new and small enterprise. This should be helpful to both non-tax-specialist attorneys and others counseling small firms, as well as to small businessmen, and prospective entrepreneurs. The present section strengthens the emphasis on references to material contained elsewhere in the Code.

Sec. 104. Revision of Depreciation Policy: Recent developments, such as abolition and restoration of the investment credit, call for a re-evaluation of the nation's depreciation policy from the viewpoint of the 90 + % of firms which are small businesses. In addition to the specific proposals embodied in sections 401 and 402 of the predecessor bills (S. 4039 and S. 1615), those bills called upon the Treasury Department for a comprehensive study of depreciation policies with particular attention to: the impact of recent legislation, including the Tax Reform Act of 1969 and such provisions of this legislation which may be enacted; the rapid advances in technology to which small business must adapt; and the practices of other industrialized nations. The Nixon Administration's task force study entitled "Business Taxation" of Sept., 1970, did not fulfill this need, since it did not contain any reference to the particular problems of small firms. The same small business problems remain, as well as others raised in the 1970 study, such as the possibility of eliminating salvage value from the computation for small firms.

Section 104 of the 1973 bill has been modified to reflect the re-enactment of the investment tax credit. It specifies that the study of capital allowances previously called for should take account of the investment credit as it relates to special small business needs.

Sec. 105. Equalization of Benefits Among Incorporated and Unincorporated Businesses: The Tax Reform Act of 1969 restricted retirement and pension benefits for small firms based upon comparability with unincorporated business. This section calls upon the Treasury to study the entire range of pension, retirement, health, medical, and insurance benefits in the larger context of what both corporations (including large corporate enterprise) and other forms of business are providing for their employees and executives. Such conclusions continue to be needed in light of the legislative and administrative initiatives of the Nixon Administration in 1972.

Sec. 106. Study of differential effect of tax law changes on businesses of varying sizes and ages: To fill a gap in present research capabilities, this section would direct the Treasury Department, through the office of the Small Business Tax Analyst, to document the impact which changes in the tax system between 1954 and 1972 have had on small compared with large businesses, and new compared to existing firms.

Sec. 107. Frequency of collection of federal taxes from businesses: This would replace four different collection schedules of federal business taxes with a single schedule of once per month if total deposits do not exceed $7000 during that month.

Sec. 108 is new in 1973: proposes that persons invited to consult with the Internal Revenue Service regarding the simplification and improvement of the Internal Revenue Code or its administration, including tax forms, be provided with reimbursement for travel and per diem expenses. It would also provide that the Treasury and the IRS should give consideration to the views of representatives of small business in this process, which is not done at present.

TITLE II—ADJUSTMENT OF CORPORATE NORMAL TAX

Sec. 201. Corporate Normal Tax Rate: The Tax Reduction Act of 1964 lowered tax rates for unincorporated business by approximately 20 percent; but for corporations where the bulk of the business is done, the reduction was only 10 percent. Although there was material relief for small business by reversal of the application of corporate normal and surtax rates, the same 2-step graduated structure was retained.

Recent studies make clear that large corporations pay taxes at a lower effective rate than do small and medium-sized companies. This title would effect a modest progressive reform in the entire corporate tax structure by providing for reductions in normal corporate tax rates for corporations earning less than $500,000 a year. From income of $500,000 to $1 million, the base rate of 22 percent would remain the same, but the effective rate of taxation would drop due to the reduced percentages in the lower brackets. As corporate earnings rose above $1 million per year the normal tax would incline slightly upward to a maximum of 24 percent for corporations earning over $1 billion annually.

In all, an 8-step graduated scale would bring corporate taxation more nearly into accordance with the principle of the ability to pay which has long been in effect for individual income taxes. The suggested rate schedule is as follows:

(b) NORMAL TAX.—The normal tax is the amount determined in accordance with the following table:

If the taxable income is	The normal tax is:
Not over $50,000	20% of the taxable income.
Over $50,000 but not over $250,000	$10,000, plus 21% of excess over $50,000.
Over $250,000 but not over $500,000	$52,000, plus 21½% of excess over $250,000.
Over $500,000 but not over $1,000,000	$150,750, plus 22% of excess over $500,000.
Over $1,000,000 but not over $10,000,000	$215,750, plus 23% of excess over $1,000,000.
Over $10,000,000 but not over $100,000,000	$2,285,750, plus 23½% of excess over $10,000,000.
Over $100,000,000 but not over $1,000,000,000.	$23,435,750, plus 23¾% of excess over $100,000,000.
Over $1,000,000,000	$237,185,750, plus 24% of excess over $1,000,000,000.

TITLE III—SPECIAL PROVISIONS TO ENCOURAGE ESTABLISHMENT OF NEW SMALL BUSINESS ENTERPRISES

Sec. 301. Exemption of $25,000 Operating Income for three-year Period: In 1970, this section of S. 4039 introduced the concept that new enterprise should be encouraged by allowing freedom from Federal income taxation for a period of three years. The proposal was put forward as a partial equalizer for small firms which must compete with companies which have not only been established for many years, but which may have built up substantial financial resources during the period when there was little or no corporate taxation in this country. The benefits of this section would be restricted to persons entering a business for the first time, and who would be spending full time in the capacity of an owner-manager of an active trade or commercial business. Further limitations were: 1) to benefit only the operating income of the enterprise, excluding gains from security and real estate transactions, which would be subject to taxation in the regular manner; 2) a ban on "successor" businesses of any kind; and 3) a disqualification based on prior ownership of more than 5 percent of any business.

The 1973 section reduces the amount of income a new business may earn free of Federal tax from $1 million per year to $25,000 per year for each of the first three years. A new, growing business might also defer its tax on the next $75,000 of income for 10 years, providing earnings are reinvested in the business and subject to recapture in the ensuing 10 year period. This section has also been further tightened to preclude from eligibility any company receiving a direct, participation or guaranteed business loan under section 7(a) of the Small Business Act.

Sec. 302. Amortization of Organization Expenses of Partnership: This would extend to partnerships the option now enjoyed by corporations, to amortize their organization expenses over 60 months, if they so desire.

Sec. 303. Bad Debt Deduction for Lenders to or Guarantors of Corporate Obligations: This provision would equate the tax treatment of lenders to or guarantors of business obligations, whether the businesses are incorporated or not, by extending the ordinary loss rule presently applicable to unincorporated business lending.

Sec. 304. Losses on Small Business Stock: To update incentives to invest, directly in small business which are presently contained in the Code, this section would increase from $25,000 to $50,000 the amount of allowable losses resulting from the purchase of section 1244 stock.

A second provision of this section would expand the definititon of a "small business corporation" authorized to issue such stock from $1 million to $1,500,000 in "equity capital" as defined by the section.

This subsection would have the effect of allowing previously ineligible corporations with equity capital of between $1 million and $1,500,000 to issue 1244 stock in the amount of $750,000 (compared with $500,000 under the present section) and to permit previously eligible small business corporations to issue stock up to the $750,000 amount, if they are otherwise in compliance with the applicable rules.

Further provisions of section 305 would enlarge from 2 years to 5 the time within which a section 1244 plan must be executed and would preclude stock options to employees from disqualifying such a stock issue.

Another subsection would promote awareness of sec. 1244 benefits by newer firms by encouraging an entry on the tax return to bring the matter to the level of attention. Filing a copy of the plan with the return as optionally provided would have additional benefits of stabilizing its timing and content.

Sec. 305. Patronage Benefits for Certain New Cooperative Enterprise.—To encourage the formation of cooperatives which have so well enriched rural American life, this section would permit such a new cooperative to retain 100 percent of declared patronage refunds (rather than the current 90 percent) for the first 5 years of its existence on the condition that substantially all of the membership and patrons are persons of low income and reside within a limited geographic area.

TITLE IV—PROVISIONS TO ASSIST SMALL BUSINESS GROWTH

The seven sections of Title IV are designed to provide encouragement for modernization,

efficiency, and cost reduction. It has been estimated that from ⅔ to ⅘ of all capital used in business is internally generated. There is wide agreement that small businesses must rely most heavily on retained earnings since it becomes progressively easier to employ sophisticated methods to attract external capital as a business increases in size and experience.

It is contemplated that these sections will be reviewed as more becomes known about the relative impact of the ADR and investment credit provisions enacted in 1971.

Sec. 401. Additional First-Year Depreciation Allowances.—This section would increase additional first-year depreciation from $10,000 to $20,000 in accordance with increases in the cost of living and doing business since the section was previously revised in 1958.

Sec. 402. Elimination of Reserve Ratio Test for Small Business: For the same purposes, this section of the predecessor bills proposed that the liberalized depreciation guidelines contained in Revenue Procedure 62–21 more fully available to small businesses by elevating the status of that publication to a regulation pursuant to statute. This part of the section would not be affected when the January 11 proposal becomes effective, although the language initially fixing the length of guideline lives as those contained in the Revenue Procedure would be affected. The elimination of the reserve ratio test for firms designated as "small business" by the Small Business Administration would survive since the January 11, 1971, ADR proposal which carried an effective date of January 1, 1972, and this section would extinguish liability previous to that date.

Section 402 has been modified to delete the portion elevating depreciation guidelines to statutory status, since this was accomplished by the Revenue Act of 1971.

Section 403 [old]: Partial Restoration of Investment Credit: Every advanced industrialized nation has both a modernized depreciation system and investment incentive device. All of the 91 percent of small corporations accounted for less than ¼ of the investment tax credit, but its use by small business contributed greatly to the forward progress of the American economy through innovative investment.

The 1970 and 1971 bills proposed partial reinstatement of the 7 percent investment credit in a manner which would be highly tailored to reduce its cost and concentrate its benefits in areas which can do the maximum good for the economy. Corporate manufacturing would be allowed $50,000 worth of qualified investment. However, permissible investment for other corporations and individuals would be scaled down to $10,000 and $5,000 respectively. In each case there would be an appropriate income ceiling of $500,000, $100,000, and $50,000, above which such high-income taxpayers would receive no benefits from the section.

In the 1973 bill, Section 403 has been dropped because of the enactment of the investment credit, which was accomplished in 1971. As mentioned above, section 104 is intended to focus attention upon the practical effects of this provision, as enacted, upon capital formation by new, small and independent businesses.

The remaining subsections of Title IV of the bill have been renumbered accordingly.

Sec. 403. 10-year Carryover of Small Business Net Operating Losses: The section would extend the period and flexibility in use of loss carryover provisions for small business by allowing existing corporations to carry losses forward up to 10 years at their option. These 1971 and 1973 formulations are derived from the Administration's 1970 proposal, but with a more established definition of small businesses which are eligible.

Sec. 404. Accumulated Earnings: In accordance with the emphasis of this bill in growing businesses, this section would raise the permissible amount to $150,000 immediately, and adds a proposal that the Commissioner of Internal Revenue be given discretion to formulate standards by which expanding firms might qualify for a credit of up to $250,000.

The subsection of the predecessor bill on burden of proof has been retained so far as the application of Subchapter G. Part I procedure to proceedings in any court, not just the Tax Court. The portion of subsection 4405(b) of the predecessor bill relating to ultimate burden of proof has been omitted.

Sec. 405. Amortization of Certain Securities Expenditures: One of the most critical hurdles for a growing small business is selling its securities to the public. This section would allow the expenses of certain types of small business stock flotations, such as those under Regulation A and section 1244 of the Code, which are not otherwise deductible, to be amortized over a period of 60 months. A further helping provision in this vein would accord the same treatment for the expenses of an initial registration of a company's securities on a regional stock exchange. The 1973 bill specifies that this benefit would be available only to small businesses.

Sec. 406. Amortization of Research and Development Activities: This provision would allow research and development expenses to be amortized beginning at the time they are made, rather than waiting until the taxpayer "first realizes benefits" from these expenditures.

Sec. 407. Multiple Surtax Exemptions Under Single Family Control: In order to encourage opportunities for family ownership of business and eliminate discrimination presently in the law, this section would permit a limited number of surtax exemptions (up to 5) in the event members of a family are placed in proprietary positions where they have ownership of at least 50 percent of the stock (or other interest) and full time management of a separately incorporated unit of a family business.

TITLE V—PROVISIONS RELATING TO PARTNERSHIPS

Sec. 501. Guaranteed Payment to Partner: This section is designed to avoid double taxation of guaranteed payments from a partnership to a deceased partner. At present a partnership interest is includable in gross estate in full, and payments from the same assets may now be taxed as distributive income of a person now considered a partner under section 707(c).

Sec. 502. Closing of Taxable Year at Death of Partner: Additional flexibility in the affairs of the deceased partner would follow from this section, which would allow the closing of the partnership year for such a decedent at any of the following times: (1) normal close of the partnership year if there has been no prior sale, exchange, or liquidation of the partnership interest; (2) the date of any of the above-described transactions; or (3) the day after the partner's death.

Sec. 503. Termination of Partnership: This section would modify present section 708(b)(1)(B) which provides that a partnership will be considered terminated if there is a sale or exchange of 50 percent of the total partnership interest within a 12-month period. An exception would be provided for transactions among the partners themselves provided they have been members of the firm for at least 1 year.

Sec. 504. Limitation of Distributive Share of Losses: This section would amend section 752 to permit a partner to deduct currently his share of partnership losses in excess of the adjusted basis of his partnership interests, in the event that the partner is unconditionally obligated for his share of such partnership losses.

TITLE VI—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

Sec. 601. Increase in Number of Permissible Shareholders: This section would allow enlargement of the Subchapter S "tax-option" small business corporations in the following 3 ways: (1) initial shareholders could number 15, rather than the present 10; (2) shareholders in excess of this ceiling who take their stock by reasons of heirship would not disqualify election; and (3) after 5 years, the number of permissible shareholders would increase to 25, broadening possibilities for motivating employees by way of stock options and for infusion of fresh capital for the expansion. The heirship exemption is limited to the first generation heirs of original shareholders.

Sec. 602. Broadening Classes of Permissible Shareholders: The classes of shareholders would also be expanded by this section to include: (a) trusts where stock passes pursuant to a will, and where the trust is used merely to convey the stock to a long-term eligible holder within 60 days; (b) trusts where the entire income is taxable to the grantor; and (c) small business investment companies, subject to the elimination of the dividends-payed credit on such income.

Sec. 603. Termination by Majority of Shareholders: Under the present law, a new shareholder can void the Subchapter S election for himself, the corporation, and all other shareholders. Under the rule proposed by this section, a new shareholder would stand on the same footing as all other shareholders, and any 51 percent of the stock ownership could revoke the election.

Sec. 604. Termination of Election—Passive Income: This section provides additionally for nondisqualification of a Subchapter S corporation by reason of exceeding the limit of 20 percent passive income in a single year. The election privilege could still be lost pursuant to this proposal if the limit is exceeded in any 2 of 4 consecutive years.

Sec. 605. Termination of Election—Inadvertence: This section would relieve considerable pressure on small business corporations in the event there has been a termination of status because of events beyond its control. If the corporation is able to establish that the termination was, in fact, inadvertent and can gain full compliance within 90 days of notification, its Subchapter S status would be preserved for future years.

Sec. 606. Carryover of Losses: This section would equate carryover treatment of Subchapter S loans in excess of basis under section 1374(c) with those of partnerships under section 704(d). Thus, if the basis was rebuilt in a future year, the excess loss would become available as a current deduction.

TITLE VII—BUSINESS DEVELOPMENT CORPORATIONS

Sec. 701. Bad Debt Reserves of Business Development Corporation: To encourage State and local development companies to extend long-term financing to non-bankable new enterprises, such companies would be permitted a bad-debt reserve deduction up to 10 percent of outstanding loans.

Sec. 702. Non-recurring Income of Business Development Corporation: Since these institutions are in a unique position to foster community development by taking long-term risks with private capital non-recurring income of certain types would be insulated from tax upon the condition that the proceeds from such unusual transactions are re-invested within the area of service and no part of these proceeds inures to the benefit of any individual or private institution.

The section has the additional requirement that the companies to be benefited must not compensate any person performing services for it. The original section has also been liberalized to allow a period of three, rather than two, years for reinvestment in accord-

ance with the long lead time in transactions of this kind.

TITLE VIII—PRESERVATION OF SMALL RUSINESS INDEPENDENCE

Sec. 801. Quarterly Adjustment of Estimated Tax: In the event corporations suffer financial reverses in 1 or 2 quarters, they cannot now recover amounts paid to the Federal Government in estimated taxes. This section would allow recovery of such amounts to the extent the newly estimated tax for the year is less than the amount already paid in. These readjustments could occur at each quarter.

Sec. 802. Debt-Financial Corporate Acquisitions: The objective of this section is to afford a practical means of discouraging mergers by disallowing interest deductions beyond $500,000 on any loan for acquisition purposes. It would be clear that financing through banks and other financial institutions, whether by a line of credit or otherwise' would be covered by this section, as well as debenture financing.

Sec. 803. Valuation of Stock of Closely-Held Corporations: A problem of disposition of any interest in a close-held business has been valuation. The present law provides for comparison only with companies listed on a stock exchange which are often more established than those which are not. This proposal would permit valuation comparisons with any similar company whether or not it is listed on an exchange.

Sec. 804. Extensions of Time for Paying Estate Tax: A new section 804 aims at administration of the estate tax which is more congenial to allowing closely-held businesses to remain in family hands following death of a major stockholder. To this end, it changes the standard of "undue hardship" (required to qualify for 10-year estate tax installments) to "hardship," which should be easier to meet.

SEC. 805. Amalgamation of Interests in Closely-Held Businesses: At present, under section 6161(d) it is required that a decedent own at least 50 percent of a business in order that its value be eligible for aggregation to meet the tests allowing installment payment of estate tax attributable to such business interests. This provision would make it easier for businesmen to qualify for aggregation by permitting addition of interests exceeding 33⅓ percent of a business toward the totals.

Sec. 806. Recommendations as to Preservation of Independent Small Business: The final provision would have the Treasury conduct a comprehensive examination of the converging pressures of income taxes, capital gains tax, reorganization rules, and estate and gift taxes which are causing so many small businesses to sell or merge out of existence rather than continue in independent form. The section calls for a report and recommendations which would improve the tax climate at this stage of the business life cycle for preservation of independent enterprises.

Technical changes: The title of the bill has been changed to reflect the current year, and other numbering, date, and technical changes have been made where needed.

Mr. BURDICK. Mr. President, I am pleased to again join with the distinguished chairman of the Senate Small Business Committee, Senator BIBLE, as a principal sponsor of the Small Business Tax Simplification and Reform bill of 1973.

When this bill was first introduced back in 1970, it was my pleasure to be the original cosponsor at that time. By the end of the 92d Congress, 23 Senators and over 78 Members of the House of Representatives had added their names to the list of cosponsors, and others had indicated their support of the measure by letter.

My observations are that the tax situation of family and farm businesses is worse in 1973 than it was in 1970. There were large tax breaks for big businesses in the Revenue Act of 1971. Costs of doing business have increased steeply in the past 3 years. In addition, the Federal Government itself is stepping up pressures on small business in areas such as new sanitation requirements, occupational safety and health standards, and the paperwork of related reporting.

The hearings in the House Committee on Ways and Means under the chairmanship of Representative WILBUR MILLS have given us hope that something might be done in this field at long last.

Small business needs tax simplification. It needs tax reform. It needs enactment of legislation along the lines of this bill, which has been developed by Senator BIBLE over the past 6 years. I will do all I can to encourage consideration and enactment of this kind of meaningful tax relief for small business in the 93d Congress.

By Mr. HUMPHREY:

S. 1099. A bill to establish a Federal-State Legislative Council. Referred to the Committee on Government Operations.

ESTABLISHMENT OF FEDERAL-STATE LEGISLATIVE COUNCIL

Mr. HUMPHREY. Mr. President, I am today introducing a bill to establish a Federal-State Legislative Council.

More than 60 percent of the Members of this Congress have at one time or another served as members of State legislative bodies. Nevertheless, there has never been a formal means for promoting communications between us or for solving the unique problems we share.

I am today introducing a bill which I believe can do much to remedy this neglect in intergovernmental interchange. The bill creates a permanent, 24-member, bipartisan Federal-State Legislative Council. Six Senators and six Representatives would serve on the Council along with 12 State legislators.

The Council will have the responsibility for exploring and researching the problems common to the legislative process. It will likely conduct hearings into the matters of legislative management, communication between Congress and the respective State legislatures, substantive program evaluation, and issues of Federalism. We could use some scrutiny of the relationship between legislative and administrative bodies, coordination of program administration, Federal preemption, intergovernmental taxation and budgets.

The service which the Council will perform as envisioned by this legislation was never more needed than today. Legislative institutions at all levels are being tested and challenged by administrative concentrations as well as to accelerating demands of social and technological change. Our very survival as relevant social institutions depends on our ability to make decisions quickly and well.

In order to do this, we must have generalists who have easy access to useful expert information. We can improve our access to the kind of information which we can use in decisionmaking and we can improve our institutional procedures to facilitate reasoned decisionmaking. This is just one example of the kind of problem the Council could address itself to. Moreover, because of its composition, I believe the Council's recommendations would be given great weight at both the State and Federal levels.

We are all aware that the legislative decisions we made here often have a very direct impact on State governments and the decisions that must be made by State legislators. This Council would be singularly qualified to explore ways of minimizing the friction that sometimes results and maximizing the cooperation that is needed.

The Council will study these problems and will make annual reports to the Congress and the legislatures. It will also make recommendations and perhaps draft model legislation.

State and Federal legislators share much more than a common occupational designation. We share similar problems, outlooks and goals and we must recognize that we share the same future. The Congress needs 50 functioning State legislatures and the State legislatures need the Congress. Neither can succeed without the other. The work of the Council would nurture this cooperative relationship and could bring a new dimension to American Federalism.

It is my hope that prompt congressional consideration will be given this proposal during the current session of Congress.

Mr. President I ask unanimous consent that the text of this legislation appear at the conclusion of my remarks.

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

S. 1099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a Federal-State Legislative Council (hereinafter referred to as the "Council") which shall be composed of twenty-four members appointed so as to achieve a geographic balance and representation and as follows:

(1) Six members to be appointed by the President of the Senate from the United States Senate;

(2) Six members to be appointed by the Speaker of the House of Representatives from the United States House of Representatives; and

(3) Six members to be appointed by the President of the Senate from among a list of 24 persons nominated by the Nation's Legislative Conference and the State Legislative Leaders organization from among the members of the upper legislative bodies of the several states;

(4) Six members to be appointed by the Speaker of the House from among a list of 24 persons nominated by the National Legislative Conference and the State Legislative Leaders organization from among the members of the lower legislative bodies of the several States.

(b) Of the members enumerated in subsection (a) (1) and (2) of this section, three shall be from the majority party of each

House and shall be appointed from Members designated by the majority leaders of the respective Houses and three shall be from the minority party of each House and shall be appointed from Members designated by the minority leader of the respective Houses. Of the members enumerated in subsection (a) (3) of this section, not more than six shall be from any one political party.

(c) The term of office of each member of the Council shall be four years; members may serve until their successors are appointed, except that in any case in which any member ceases to serve in the official position from which he was originally appointed under this section, his term of office on the Council shall terminate at the time he ceases to serve in such official position. No member may serve for more than two terms.

(d) Any vacancy in the membership of the Council shall not affect its powers and shall be filled in the same manner as the original appointment was made.

(e) The Council shall select a Chairman and Vice Chairman from among its members annually. The Vice Chairman shall act in the place of the Chairman in the absence of the Chairman. The Chairmanship shall alternate between members of the Council appointed from the United States Congress and members appointed under subsection (a) (3) of the first section of this Act. The Vice Chairman shall be chosen from the category of members (Members of Congress or persons appointed under subsection (a) (3) of the first section) other than the category from which the Chairman was selected.

(f) Seven members of the Council shall constitute a quorum, but two or more members shall constitute a quorum for the purpose of conducting hearings.

DUTIES OF THE COUNCIL

SEC. 2. (a) The Council shall form substantive committees to conduct such studies as are necessary or desirable to identify and investigate problems common to the legislative process which are of mutual concern to the legislatures of both the Federal and State governments. Based on such studies, the Council shall make such recommendations from time to time for the solution of such problems as it deems appropriate. The Council shall also develop and prepare proposed legislation to carry out its recommendations.

(b) The Council shall meet at least once quarterly but may hold such additional meetings as it deems necessary. At least one-half of the meetings held by the Council shall be held outside Washington, D.C.

(c) The Council may issue such reports regarding its findings and recommendations as it deems advisable, and shall submit an annual report of its findings and recommendations to the President and the Congress the State Governors and each State Legislature not later than the first day of February of each year.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 3. (a) The Council or, on the authorization of the Council, any committee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings, take such testimony, and sit and act at such times and places as the Council, committee, or member deems advisable. Any member authorized by the Council may administer oaths or affirmations to witnesses appearing before the Council or any committee or member thereof.

(b) Each department, agency, and instrumentality of the Federal Government, including independent agencies, is authorized and directed to furnish to the Council, upon request made by the Chairman or Vice Chairman, such information as the Council deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Council, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

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

COMPENSATION OF MEMBERS

SEC. 4. (a) A member of the Council who is a member of Congress or a full-time salaried official of the body of which he is a member when appointed to the Council shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Council.

(b) A member of the Council other than one to whom subsection (a) of this section applies shall receive $100 per day when engaged in the actual performance of duties vested in the Council and shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

By Mr. McINTYRE (for himself, Mr. PASTORE, Mr. HRUSKA, Mr. FANNIN, and Mr. BAKER):

S. 1100. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide a comprehensive program of health care by strengthening the organization and delivery of health care nationwide and by making comprehensive health care insurance—including coverage for medical catastrophies—available to all Americans, and for other purposes. Referred to the Committee on Finance.

THE NATIONAL HEALTH CARE ACT OF 1973

Mr. McINTYRE. Mr. President, together with the Senator from Rhode Island (Mr. PASTORE), the Senator from Nebraska (Mr. HRUSKA), the Senator from Arizona (Mr. FANNIN), and the Senator from Tennessee (Mr. BAKER), I introduce for appropriate reference the National Healthcare Act of 1973. This bill provides a comprehensive program of health care by strengthening both organization and delivery of health care throughout the Nation, as well as making comprehensive health insurance available to all Americans, and for other purposes.

Mr. President, we live in a time of both rising aspirations and rising fears. The American public, quite correctly, expects higher performance from its national institutions so that they will function to the greater good. The American public also expects that this most affluent Nation should provide to all a better quality of life. At the same time, the public has many fears, and the fast pace of our modern world reinforces these fears, among the most prevalent of which is the fear of major illness.

It is not merely the fear of being incapacitated by illness, but rather the financial threat implicit in such illness. Overwhelming and sudden catastrophic illness is something Americans fear more than a lower standard of living, unemployment, inflation and even war according to a recent study. The seemingly random aspect of catastrophic illness or injury makes this fear very much like the fear of crime, a kind of personal helplessness in the face of overwhelming forces.

Now, one can argue that the incidence of catastrophic illness is statistically small, but this will not materially reduce the individual citizen's fear that the lightning bolt could still strike him or a member of his family.

Further, the average citizen can see around him the daily evidence of other problems in our national system of health care. When hospital rooms soar in cost to $100 a day and beyond the citizen knows the system is askew. When costs of medical fees and related therapy keep rising, the citizen wonders how he can cope with the situation.

If it is assumed that routine medical care comes at high cost, it is assumed by the citizen that involved and prolonged medical care comes at astronomic costs.

But the ordinary citizen is troubled by other aspects of the faltering health system. If he lives in a small town, he may find there is no physician at all to serve him. If he lives in the city, particularly in the urban ghetto, he may find a similar dearth of trained medical personnel. And for all citizens, everywhere, other symptoms of trouble can be found. There is the familiar problem of trying to get an immediate doctor's appointment. Lacking the time to make house calls, many doctors do not even have time to diagnose or prescribe for a flu patient over the telephone. The moves toward group practice and wider use of paramedical personnel have so far failed to blunt the problems of medical manpower shortages.

If the citizen is over 65 or has to assist his elderly parents, he also sees the great gap between the promise of medicare and the reality.

We enacted medicare in 1965 to relieve older Americans from rising health costs. The program did make available health care dollars to defray the costs of hospitalization, treatment, and so on. But medicare, which provided no additional doctors and no additional hospitals, helped to accelerate the already high costs of health care.

Thus, the elderly have seen their out-of-pocket costs for the program go up twice, while the wage earner who pays for this program through his social security tax, together with his employer, have been caught in a series of incremental increases. In 1967, when Congress had to vote a 25-percent wage tax increase just to keep medicare solvent, the wage base on which social security tax was levied was $7,800 and the tax rate stood at 4.4 percent. Today the wage base is $10,800 and the tax rate is 5.65 percent. The rate will rise to 6.05 by 1987, under present law, and will eventually exceed 7 percent even if no new taxes are added.

Because social security tax is levied even on those whose incomes are below the designated "poverty-line," everyone has had to pay the cost of medicare.

At the same time, because medicare created heavier demand on medical personnel and facilities without increasing them, the cost of care went up so that the wage earner paid not only more social security tax but higher premiums for his own private health insurance, because private insurors also had to face this supply-and-demand problem. In short, we have had an inflation situation of the classic variety—and it is a no-win condition.

In this cause-and-effect situation people saw the visible effect, but lost track of the cause. It is a peculiarly ironic comment that in the field of health and medicine, we have been treating symptoms without getting to the disease.

That is why, Mr. President, I believe that if we are to achieve any significant improvement in health care and meet the needs and expectations of the public, we have to come up with a total program that addresses itself to a wide range of problems, not merely those that are most visible. We must make the entire system more flexible, more responsive, more innovative. We must cover a broad range of care—from dentistry to psychiatry—if we are truly to deal with modern health care needs. And we need to do it now.

I would like to point out, Mr. President, that I strongly believe in fiscal responsibility. I want to see that our needs are met without inordinate increases in taxation. No one needs to remind this Senator that throwing tax dollars at national problems is an imprudent way to solve problems.

I think we can solve our health problems in America. I think we can do so in a straightforward way, using the skills and strengths which we have at our disposal and providing the kind of care need at a price we can afford.

Mr. President, it is all too easy to become carried away by the rhetoric of crisis. We have serious problems in the health care field, problems which require immediate and responsible answers. As I indicated earlier, we cannot address ourselves to the most visible of these problems and forget the others. Nor can we, in our zeal and desire to provide a remedy, fall prey to the old inflammatory language and describe our health care problems as a "national health disaster," as some of my colleagues have done, or refer to our health problems as "a massive crisis." That way lies the mistakes we have made in the past.

I do not think we need to find scapegoats. I think we need answers.

I do not believe we can solve all of the national health care problems of the United States by passing a law which deals only with catastrophic illness. It is obvious that problems of health care go far beyond this single emotionally fraught question.

Nor do I believe, however, that we must scrap the entire health apparatus in this Nation—including 300,000 health insurance workers—to construct a wholly new Federal bureaucracy to deal with a national health insurance program.

Surely this is wasteful of skilled manpower and an approach that, by adding additional new tax costs, would diminish our national capability for meeting other priorities.

Harry Schwartz, the New York Times reporter who has written "The Case for American Medicine," has observed that:

> The myth that government can produce magic answers dies hard, despite debacle after debacle in education, housing, mail service, military production and other areas. Must American medicine become another disaster area before the lesson is learned?

Even if we disregard Mr. Schwartz' polemics, there is valid reason to suspect that a new and large-scale Federal insurance system will not necessarily reduce the high costs of medical care.

The writer notes, for instance, that other changes are needed to put Americans on the path to better health—including:

> Fundamental changes in lifestyle away from patterns that conduce to sickness and early death and toward new patterns that promote well being.

Like so many other national problems, there is no precise parting point between health and other challenges—money we spend to improve auto safety, for instance, may be a significant factor in reducing our national health problems. And the same can be said about drug and alcohol abuse.

Therefore, Mr. President, I believe we need to take a pragmatic look at the broad spectrum of our national health problems, involving both private enterprise and Government in the job of problem-solving. In that way, we will husband our tax dollars and avoid the tunnel vision which has plagued us in the past.

I believe the National Healthcare Act of 1973 is a practical bill. It will:

First, increase the supply and improve the productivity and distribution of health manpower.

Second, develop ambulatory health care services to promote health maintenance and reduce costly hospital use.

Third, improve health care planning to distribute current and future health resources more equitably and effectively.

Fourth, more directly contain the escalation in health care costs and upgrade quality of health care.

Fifth, establish national goals and priorities to improve health care.

Sixth, improve the financing of health care, including catastrophic illness, for everyone. It will do so by:

Federal standards for minimum ambulatory, preventive and institutional care benefits, including comprehensive coverage for catastrophic illness.

Phasing-in of benefits on a time-table basis.

Use of existing private health insurers—including insurance companies, Blue Cross-Blue Shield, and prepaid group practice plans—to provide benefits.

Federal income tax incentives to help assure that comprehensive benefit levels are maintained.

Establishment of State pools of private health insurers to provide standard benefits for the poor, near-poor and those previously uninsurable for health reasons with those benefits for the poor and near-poor being subsidized by Federal and State funds.

For instance, in covering catastrophic illness, the National Health Care Act provides that any covered individual who incurs $5,000 worth of medical bills in a 12-month period will be eligible for up to $250,000 in benefits, whether or not some or all of that $5,000 in bills has been reimbursed by insurance.

The bill also recognizes that one of the continuing factors in high cost of treatment is use of in-patient hospital facilities. If we cut average hospital confinement by just 1 day, we can save $2 billion per year.

Thus the bill encourages development of ambulatory care facilities which could handle such things as diagnostic work, X-rays, and other tests, as well as 25 percent of the surgery now done in hospitals.

The bill strengthens the power of health planning agencies, so they can more realistically review facility plans, eliminate duplication and assure that medical facilities are coordinated.

Cost and quality control measures are utilized through plans which provide for prospective rate review for hospitals.

Meanwhile, provision is made to upgrade manpower through reappraisal of Federal training programs, improved grants to medical schools and better student loan programs.

Everyone is assured equal access to quality health care, through Federal standards which prescribe by law the best schedule of benefits. Additional benefits will be phased-in as health facilities increase. But benefits for the poor, near-poor and previously uninsurable will come into operation faster.

The bill's provision to phase in benefits in stages over a period of time permits the system to adjust to the pace of rising demand for services.

This feature alone will tend to restrain costs.

In contrast, other proposals would increase demand overnight and place a tremendous strain on the system and upward pressures on prices of medical care.

We must not make the mistake again of promising more than we can deliver.

With regard to the economically disadvantaged and high-risk individuals, my bill provides that the poor would pay no premium, the near poor would pay only partial premiums, and the uninsurable would pay a full, but reasonable premium.

Both employer and the covered individual employee would receive a tax deduction, thus encouraging implementation of better benefits. The bill embodies copayment features which are designed to encourage preventive and ambulatory, rather than institutional, care.

I might add that when the patient has a stake in holding down costs he can be expected to make better use of medical services than when they are "free" as it might be considered if offered under the umbrella of a pure government program.

Also, Mr. President, the bill calls for a Cabinet-level health council to im-

prove organization, delivery, financing, and quality of health care.

The cost of the National Health Care Act of 1973 to the taxpayers is $8.1 billion in new taxes. I submit that this amount will be significantly below the cost of a program which calls for a massive new Federal agency to administer health insurance, and below the cost of other comprehensive programs as well.

Moreover, health care does not turn to the social security tax mechanism as a means of financing.

I believe, Mr. President, that the National Health Care Act of 1973 can accomplish what it sets out to do—and do so without sacrificing any essential part of a system which allows the right of free choice.

In fact, by calling upon the traditional partners in problem solving, the public and private sectors, the Health Care Act strives to build upon sound foundations rather than tear down and build anew.

Dispensing with rhetoric and emotionalism, let me say finally that the National Health Care Act of 1973 aims to get the job done. No more and no less. I, therefore, invite my colleagues to join with me in supporting an approach which I believe is responsive without being expensive, the National Health Care Act of 1973.

Mr. President, I ask unanimous consent that a summary of the key features of the National Health Care Act of 1973 be printed in the RECORD at this point, followed by the text of the bill, and then by a section-by-section analysis of the bill.

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

THE KEY FEATURES OF THE NATIONAL HEALTH CARE ACT OF 1973—FEBRUARY 1973

INTRODUCTION

The goal of the National Health Care Act of 1973 is to meet the personal health needs of every citizen. It seeks to achieve this goal by containing health care costs, improving the organization and delivery of health services, and making comprehensive health insurance available to all.

The objectives of the National Health Care Act are to:

1. Increase the supply and improve the productivity and distribution of health manpower.
2. Develop ambulatory health care services to promote health maintenance and reduce costly hospital use.
3. Improve health care planning to distribute current and future health resources more equitably and effectively.
4. More directly contain the escalation in health care costs and upgrade quality of health care.
5. Establish national goals and priorities to improve health care.
6. Improve the financing of health care, including catastrophic illness, for everyone.

1. Increase the supply and improve the productivity and distribution of health manpower

Shortages and maldistribution of health manpower constitute the greatest obstacle to an improved health delivery system.

To correct these deficiencies, the bill calls for the following steps to be taken:

A. Appraisal by the Federal government of the adequacy of present grant, loan or other Federal aid programs for health manpower training and development, and the need for expansion. The study's objective would be to recommend procedures for program consolidation, coordination, and increased efficiency, as well as to develop proposals for promotion of health careers.

B. Improve student loan programs with built-in financial incentives to physicians, optometrists, dentists, nurses and allied health personnel to encourage service in inner-city and rural areas.

C. Provide Federal grants to schools to spur the training of additional physicians and allied health personnel, particularly in provision of family ambulatory care of administration of ambulatory care centers.

D. Meet immediate needs through a temporary Federal grant program to physicians, nurses, and allied health personnel agreeing to serve during the next five years in areas most critically short of services.

2. Develop ambulatory health care services to promote health maintenance and reduce costly hospital use

Greater access to effective and less costly health care for all will be achieved through expansion in every community of ambulatory health care services.

These services would include preventive care, diagnosis, treatment and rehabilitation. They would be provided in facilities that might range from reorganized hospital outpatient departments or expanded group medical practices to prepaid group practice plans or other health maintenance organizations.

To this end, the bill calls for the following action:

A. Extend present Federal programs of hospital construction grants, and hospital and outpatient facility loan guarantees, to encourage private and public financing of comprehensive ambulatory health care centers, particularly in areas of special need.

B. Make such grants and loan guarantees available to subsidize ambulatory health care center costs for the first three years of operation.

C. Include ambulatory and preventive care benefits in all health insurance plans.

3. Improve health care planning to distribute current and future health resources more equitably and effectively

• Improved planning for health care systems is essential to the development of rational approaches to effective and economical delivery of community health services.

The bill, therefore, calls for reinforcing the key role and authority of state and areawide comprehensive health planning agencies through the following action:

A. Increase substantially financial support for comprehensive health planning at community and state levels.

B. Enlarge specific responsibilities of planning agencies to include:

a. Setting priorities on community needs, with emphasis on coordinated health care programs, and health education of the public.

b. Reviewing and certifying as to need all applications for a Federal grant, loan, loan guarantee, or other Federal aid exceeding $100,000 for the purpose of proposed new or modernized health care services, facilities or equipment.

4. More directly contain the escalation in health care costs and upgrade the quality of health care

A more rational health delivery system must have built into it controls to assure quality of care and containment of rising costs. The bill provides that the following safeguards be implemented:

A. Tie all Federal loans, grants or contracts for a health facility or service to the certification of need by a comprehensive health planning agency.

B. Planning agencies would assist facilities to submit capital expenditure proposals consistent with the State health plan, and to develop efficiency and cost saving incentive programs for optimum use of manpower, services, and equipment.

C. Tie payment for health care under Federally-supported programs to prevailing fees and to peer review of those professional services that fall outside of professionally established guidelines, assuring appropriateness of treatment, quality of care, and reasonableness of physician fees. Review and approval would come from an appropriate health services review organization or, in its absence, by the organizations administering Federal programs.

D. Payment to hospitals or other health care institutions under Federal programs would be subject to approval by a State Healthcare Institutions Cost Commission appointed by the Governor. All such institutions would be required to:

a. Have an active review committee to check appropriateness and quality of services.

b. Utilize a standard system of accounts and cost finding.

c. Cost "prospectively approved charges" for all patients. Such a system would involve review and approval in advance by the State Commission of the proposed charges, assuring charges reasonably related to the cost of effectively providing necessary services.

5. Establish national goals and priorities to improve health care

Only national leadership can bring about unified health policies, goals and guidelines which are properly balanced against other priorities of society.

The bill, therefor, proposes the following steps be taken:

A. The President deliver to Congress annually a Health Report on the state of the nation's health at Federal, state, and local levels, with legislative proposals a appropriate to improve the organization, delivery, and financing of health care.

B. Congress create a Council of Health Policy Advisors in the Executive Office of the President, analogous to the Council of Economic Advisors. Composed of three members appointed by the President, with Senate consent, the Council would:

a. Help prepare the President's annual Health Report.

b. Recommend procedures for coordinating, consolidating or eliminating health related programs of the various Federal agencies and departments.

c. Conduct health care research.

d. Provide guidelines for health care funding allocations.

e. Develop recommendations for national policy to improve the organization, financing, delivery and quality of health care.

C. Congress direct every Federal agency to include in all legislative recommendations or other major Federal actions a statement on the impact of the proposal on the health care system, including adverse effects, alternatives, relative priority, and any irreversible commitments of resources involved.

6. Improve the financing of health care for everyone

Financial barriers to dignified access to health care for all citizens must be removed. This objective can best be achieved by broad action on two fronts:

One, Federal stimulus to the development of health insurance coverage which would promote ambulatory and preventive care and the availability of new forms of health delivery. This would serve to shift the focus from costly hospital inpatient care to a more economical setting.

Two, ensure the availability of comprehensive coverages to all which build on the broad base of existing voluntary health insurance plans within a unified Federal-state program. Costs for most people should continue to be met by individuals and employers, with public funds used for those

needing total or partial support in financing their health care.

To this end, the bill calls for adoption of these innovative measures:

Federal standards for minimun ambulatory, preventive, and institutional care benefits, including comprehensive coverage for catastrophic illness.

Phasing-in of benefits on a time-table basis.

Use of existing private health insurers (including insurance companies, Blue Cross-Blue Shield, and prepaid group practice plans) to provide benefits.

Federal income tax incentives to help assure that comprehensive benefit levels are maintained.

Establishment of state pools of private health insurers to provide standard benefits for the poor, near-poor and those previously uninsurable for health reasons, with those benefits for the poor and near-poor being subsidized by Federal and state funds.

Federal standards for health care benefits

These standards, to be known as Minimum Standard Healthcare Benefits, would be set by the government in consultation with providers, consumers and health insurers. Emphasis would be placed on benefits for ambulatory and preventive care to shift the focus from high-cost in-hospital treatment to lower-cost and more accessible out-of-hospital care.

Maximum benefit limits for catastrophic expense would be not less than $250,000. By 1985, there would be no maximum limits on ambulatory care and only realistic limits on institutional care.

Phased-in benefits

Under the Healthcare bill, the following Minimum Standard Healthcare Benefits schedule is illustrative of the type of national standard which could be put into effect as the manpower and facilities became available.

The Minimum Healthcare Benefits for private group and individual plans, which would initially be effective in 1975, would cover charges for:

All diagnostic X-ray and laboratory examinations on an ambulatory basis.

All surgery and radiation therapy in a physician's office or ambulatory health care center.

Three visits per year per family member to a physician in his office or ambulatory health care center for other types of medical treatment.

Well baby care including immunizations, up to six visits during first six months after birth.

Charges for physicians' services while institutionalized.

First 30 days of semi-private general or psychiatric hospital care per illness.

First 60 days of convalescence in a skilled nursing home per illness.

First 90 days in an approved home health care program per illness.

Benefits for state pool plans for the poor, near-poor and those previously uninsurable for health reasons would begin initially effective July 1, 1974 and would cover charges for:

All diagnostic X-ray and laboratory examinations on an ambulatory basis.

All surgery and radiation therapy in ambulatory health care centers.

Six visits per year per family member to a physician in his office or ambulatory health care center for other types of medical treatment.

Well baby care including immunizations, up to 12 visits during the first two years.

Charges for physicians' services while institutionalized.

Dental care for children under 19, including annual examination, fillings, extractions, and dentures.

Prescription drugs for all persons.

Rehabilitation services, including prosthetic appliances and physical therapy.

Maternity care.

Family planning services and supplies.

First 120 days of semi-private general or psychiatric hospital care per illness.

First 120 days of convalescence in a skilled nursing home per illness.

First 180 days in an approved home health care program per illness.

In 1980, the Minimum Standard Healthcare Benefits for private group and individual plans would be raised to the level initially required for the state pool plans. The standards for state plans would be increased so that essentially all ambulatory care would be covered without limit for children and adults, and institutional care would be covered within the following realistic limits:

300 days of semi-private general or psychiatric hospital care per illness.

180 days of convalescence in a skilled nursing home per illness.

270 days in an approved home health care program per illness.

In 1985, the Minimum Standard Healthcare Benefits for private group and individual plans would be brought up to the 1980 standards for the state pool plans.

Those medical care expenses which experience shows lead to overutilization may be subject to a modest amount of co-payment. In order to prevent co-payments from becoming an undue burden on the family, there will be an aggregate limit charged in any one year that is related to family income.

Catastrophic illness

Any covered individual who incurs $5,000 of medical expenses (including those reimbursed by insurance) within 12 consecutive months shall immediately become entitled to the maximum benefits specified above, regardless of phasing, up to at least $250,000.

Federal tax incentives

Under Federal tax incentives, beginning in 1975, the amount of tax deductibility allowed an employer for health care expenditures would be reduced from 100 percent to 50 percent, unless the employer's group plan contained the Minimum Standard Healthcare Benefits established by the government, further reduced to 25% in 1976, and completely eliminated after 1976.

For persons not belonging to groups, tax incentives would also be offered to obtain individual policies meeting all of the requirements. These would be known as Qualified Individual Healthcare Plans.

State pool plans for poor and near-poor

Minimum Standard Healthcare Benefits would be available to persons on public assistance through Qualified State Healthcare Plans which would be participated in by private health insurers and supported by state and Federal subsidies.

These state programs would reduce the need for Medicaid and eventually replace it as a means of financing care for the medically indigent.

Persons on public assistance would not pay any portion of the premium for their coverage. The near-poor would make a contribution scaled to their income.

Individuals who cannot obtain adequate protection because of poor health also would be eligible for benefits subject to their paying the premiums.

Each Qualified State Healthcare Plan would be a pooled arrangement underwritten by all participating private health insurers in each state. One carrier or group of carriers in each state would be designated by the state to administer the plan.

Solvency

Rules are provided to fully protect all claimants against the insolvency of any qualified healthcare plan.

Health care program cost

The additional taxes required in fiscal 1976 (the first full year of operation) to pay for the Healthcare Program are estimated at $8.1 billion.

S. 1100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "National Healthcare Act of 1973".

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

Sec. 101. Findings.
Sec. 102. Declaration of purpose.

TITLE II—PROVISIONS TO INCREASE THE SUPPLY AND IMPROVE THE DISTRIBUTION OF HEALTH CARE PERSONNEL

Sec. 201. Student loans for training in the health professions and nursing.
Sec. 202. Scholarship grants and student loans for training in the allied health professions.
Sec. 203. Training for personnel needed in comprehensive ambulatory health care centers.
Sec. 204. Grants to personnel in the health professions, allied health professions and nursing for service in areas of critical need.

TITLE III—PROVISIONS TO ENCOURAGE COMPREHENSIVE AMBULATORY HEALTH CARE CENTERS

Sec. 301. Amendment of purpose.
Sec. 302. Authorization of appropriations for construction and modernization grants.
Sec. 303. State allotments.
Sec. 304. Priority of projects.
Sec. 305. State plans.
Sec. 306. Recovery of funds.
Sec. 307. Loan guarantees and loans for modernization and construction of comprehensive ambulatory health care centers.
Sec. 308. Definition of comprehensive ambulatory health care center.

TITLE IV—PROVISIONS TO STRENGTHEN COMPREHENSIVE HEALTH CARE PLANNING

SUBTITLE A—HEALTH REPORT OF THE PRESIDENT; COUNCIL OF HEALTH POLICY ADVISERS

Sec. 401. Health report of the President.
Sec. 402. Council of Health Policy Advisers.
Sec. 403. Employment of officers, employees, experts and consultants.
Sec. 404. Responsibilities of Council.
Sec. 405. Consultation with other advisory bodies and representative groups; cooperative utilization of services, facilities, and information.
Sec. 406. Compensation of members.
Sec. 407. Authorization of appropriations.

Subtitle B—DEPARTMENTAL RECOMMENDATIONS AND REPORTS

Sec. 411. Statements regarding effect of departmental proposal on Nation's health care.
Sec. 412. Agency obligations under other Federal statutes.

Subtitle C—COMPREHENSIVE HEALTH PLANNING AMENDMENTS

PART A—DEFINITION OF "APPROPRIATE COMPREHENSIVE HEALTH PLANNING AGENCY"

Sec. 431. Appropriate comprehensive health planning agency defined.

PART B—STATE AND AREAWIDE COMPREHESIVE HEALTH PLANNING AGENCIES

Sec. 441. State agency review and certification.
Sec. 442. Areawide comprehensive health planning agencies.
Sec. 443. Comprehensive procedure for review and certification.
Sec. 444. Definitions: "appropriate comprehensive health planning agency" and various other definitions relating to Federal assistance.

TITLE V—PROVISIONS TO MAKE COMPREHENSIVE HEALTHCARE INSURANCE AVAILABLE TO ALL

Subtitle A—ESTABLISHMENT OF MINIMUM STANDARD HEALTHCARE BENEFITS

Sec. 501. Definition of Minimum Standard Healthcare Benefits.

Subtitle B—QUALIFIED EMPLOYEE HEALTHCARE PLANS

Sec. 511. Employer's deduction for employee healthcare expenditures.

Subtitle C—QUALIFIED INDIVIDUAL HEALTHCARE PLANS

Sec. 521. Qualified Individual Healthcare Plans.

Sec. 522. Procedure for rulings on qualification of employee and individual healthcare plans.

Sec. 523. Regulations.

Subtitle D—GRANTS TO STATES FOR QUALIFIED STATE HEALTHCARE PLANS FOR THE NEEDY AND UNINSURABLE

Sec. 531. Grants to States for Qualified State Healthcare Plans.

Sec. 532. Carrier compliance.

Sec. 533. Conforming amendments to title XVIII of the Social Security Act.

Sec. 534. Conforming amendments to title XIX of the Social Security Act.

Sec. 535. Conforming amendments regarding "reasonable costs."

Sec. 536. Conforming amendments to the Internal Revenue Code.

Sec. 537. Effective date.

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. FINDINGS.

The Congress hereby finds that:

(a) America confronts a critical testing of its capacity to meet for all of its citizens one of the most basic of human needs, that of protecting and maintaining personal health;

(b) Every citizen of the United States of America should have access to quality healthcare, but too many Americans find it difficult to secure quality health care when they need it, where they need it, at prices they can afford;

(c) The Nation needs systems of healthcare organizations, delivery, and financing which combine the high scientific and technical competence of the medical and allied health professions; the flexibility, innovativeness, efficiency, and managerial skills of private enterprise; the legislative and fiscal capacities of government at all levels; and the potentialities of consumer and community participation in developing and maintaining such systems of health care.

SEC. 102. DECLARATION OF PURPOSE

The Congress declares the purpose of the Act to be to improve the organization, delivery, and financing of healthcare for all citizens of the United States of America by increasing health personnel, promoting ambulatory care, strengthening health planning, establishing national standards of health care benefits including coverage for medical catastrophies, encouraging provision of such benefits through comprehensive health care insurance, and by assisting persons of low income or in poor health to secure that insurance.

TITLE II—PROVISIONS TO INCREASE THE SUPPLY AND IMPROVE THE DISTRIBUTION OF HEALTH CARE PERSONNEL

SEC. 201. STUDENT LOANS FOR TRAINING IN THE HEALTH PROFESSIONS AND NURSING.

(a) STUDENT LOANS FOR TRAINING IN THE HEALTH PROFESSIONS.—Subsection (a) of section 741 of the Public Health Service Act is amended to read as follows:

"(a) In the case of any student, the total of the loans from a loan fund established under this part for any academic year (or its equivalent, as determined under regulations of the Secretary) may not exceed the lesser of $5,000 or the sum of

"(1) the actual cost of tuition and fees, and

"(2) the reasonable expenditures (as determined in accordance with regulations) for supplies, books, room and board, and other related costs.

In the granting of such loans, a school shall give preference to persons who enter as first-year students after June 30, 1973."

(b) AUTHORIZATION OF APPROPRIATIONS.—Effective with respect to fiscal years beginning after June 30, 1974, subsection (a) of section 742 of such Act is amended—

(1) by striking out all that follows clause (3) in the first sentence and inserting in lieu thereof the following:

"there are authorized to be appropriated $100,000,000 each for the fiscal year ending June 30, 1975, and the two succeeding fiscal years.";

(2) by striking out "June 30, 1975" in the second sentence and inserting in lieu thereof "June 30, 1978"; and

(3) by striking out "July 1, 1974" in the second sentence and inserting in lieu thereof "July 1, 1977".

(c) CONFORMING AMENDMENT.—Section 743 of such Act is amended by striking out "1977" wherever it appears therein and inserting in lieu thereof "1980".

(d) STUDENT LOANS FOR NURSE TRAINING.—Subsection (a) of section 823 of such Act is amended to read as follows:

"(a) In the case of any student, the total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this part may not exceed the lesser of $3,500 or the sum of

"(1) the actual cost of tuition and fees, and

"(2) the reasonable expenditures (as determined in accordance with regulations) for supplies, books, room and board, and other related costs.

In the granting of such loans, a school shall give preference to licensed practical nurses and to persons who enter as first-year students after June 30, 1973."

(e) AUTHORIZATION OF APPROPRIATIONS.—Effective with respect to fiscal years beginning after June 30, 1974, the first sentence of section 824 of such Act is amended to read as follows: "There are authorized to be appropriated to the Secretary of Health, Education, and Welfare for Federal capital contributions to student loan funds pursuant to section 822(b)(2)(A) $75,000,000 each for the fiscal year ending June 30, 1975, and the two succeeding fiscal years, and such sums for the fiscal year ending June 30, 1978, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1977, to continue or complete their education."

(f) CONFORMING AMENDMENT.—Section 826 of such Act is amended by striking out "1977" wherever it appears therein and inserting in lieu thereof "1980".

SEC. 202. SCHOLARSHIP GRANTS AND STUDENT LOANS FOR TRAINING IN THE ALLIED HEALTH PROFESSIONS.

(a) RECOMMENDATIONS OF COUNCIL OF HEALTH POLICY ADVISERS.—Subsection (a) of section 794B of the Public Health Service Act is amended by adding the following after the word "prescribe": ", with due regard to any relevant recommendations of the Council of Health Policy Advisers established pursuant to title IV of the National Healthcare Act of 1973".

(b) SCHOLARSHIP GRANTS FOR TRAINING IN THE ALLIED HEALTH PROFESSIONS.—Subsection (d) of such section is amended to read as follows:

"(d) Any scholarship awarded from grants under subsection (a) to any individual for any year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses as the agency, institution, or organization making the award determines, in accordance with regulations provided by the Secretary, the student needs for such year on the basis of his requirements and financial resources."

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (f) of such section is amended to read as follows:

"(f) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 each for the fiscal years ending June 30, 1975, and the two succeeding fiscal years."

(d) STUDENT LOANS FOR TRAINING IN THE ALLIED HEALTH PROFESSIONS.—Subsection (b)(1) of section 794D of the Public Health Service Act is amended to read as follows:

"(b)(1) In the case of any student, the total of loans from a loan fund established under this section for any academic year (or its equivalent, as determined under regulations of the Secretary) may not exceed the full cost of tuition and fees, and reasonable expenditures for supplies, books, room and board, and other related costs as determined in accordance with regulations. In the granting of such loans, the agency, institution, or organization shall give preference to persons who enter as first-year students after June 30, 1973."

(e) CANCELLATION OF STUDENT LOANS.—Subsection (b)(2)(C) of such section is amended to read as follows:

"(C) not to exceed 50 percent of any such loan (plus interest) shall be canceled for full-time employment as an allied health professional in any public or nonprofit private institution or agency (including comprehensive ambulatory health care centers), at the rate of 20 percent of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 33⅓ percent for each complete year of service as an allied health professional in any area in a State which is determined by the Secretary, upon recommendation by the appropriate State comprehensive health planning agency (designated or established pursuant to section 314(a)(2)(A) of this Act), in accordance with regulations of the Secretary, to be an area which has a shortage of and need for such allied health professionals, and for cancellation at such higher rate, an amount equal to an additional 50 percent of the total amount of such loans plus interest may be canceled;".

(f) AUTHORIZATION OF APPROPRIATIONS FOR LOANS.—Subsection (c) of such section is amended to read as follows:

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to the student loan funds pursuant to subsection (a)(2)(B)(i) $7,500,000 for the fiscal year ending June 30, 1973, $15,000,000 for the fiscal year ending June 30, 1974, $40,000,000 for the fiscal year ending June 30, 1975, $60,000,000 for the fiscal year ending June 30, 1976, and $75,000,000 for the fiscal year ending June 30, 1977, and such sums for the fiscal year ending June 30, 1978, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1977, to continue or complete their education. Sums appropriated pursuant to this subsection for the fiscal year ending June 30, 1973, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by subsections (f)(4) and (2) in accordance

with agreements under this section for Federal capital contributions to schools with which such agreements have been made, to be used, together with deposits in such funds pursuant to subsection (a)(2)(B)(ii), for establishment and maintenance of student loan funds."

(g) DISTRIBUTION OF ASSETS FROM LOAN FUNDS.

(1) Subsection (e) of such section is amended by striking out "1977" wherever it appears therein and inserting in lieu thereof "1980."

(2) Subsection (f)(1)(A) of such section is amended by striking out the word "two" and inserting in lieu thereof "four."

(3) Subsection (f)(3) of such section is amended by striking out "$35,000,000" and inserting in lieu thereof "$100,000,000."

SEC. 203. TRAINING FOR PERSONNEL NEEDED IN COMPREHENSIVE AMBULATORY HEALTH CARE CENTER.

(a) Section 795(1)(A) of the Public Health Act is amended—

(1) by inserting "health care center administration," immediately after the first reference to "dental hygiene"; and

(2) by inserting "which shall include the curriculums for various types of allied health professions which the Secretary finds to be necessary for the effective operation of comprehensive ambulatory health care centers (defined in section 645)," immediately after "regulation,".

(b) Section 795(1)(C) of the Public Health Service Act is amended to read as follows:

"(C) which, if in a college or university which does not include a teaching hospital or a comprehensive ambulatory health care center (defined in section 645) or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital or a comprehensive ambulatory health care center,".

(c) Title VII of the Public Health Service Act is amended by adding the following new part I after section 799A as follows:

"PART I—GRANTS FOR PLANNING AND ESTABLISHMENT OF CURRICULUMS FOR TRAINING COMPREHENSIVE AMBULATORY HEALTH CARE TEAMS

"SEC. 799B. (a) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $40,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 each for the fiscal year ending June 30, 1976, and the succeeding fiscal year, for special project grants under subsection (b) of this section. The portion of the sums so appropriated for each fiscal year which shall be available for grants under such section shall be determined by the Secretary unless otherwise provided in the Act or Acts appropriating such sums for such year.

"Special Project Grants

"(b) Grants may be made, from sums available therefor from appropriations under subsection (a), to assist schools of medicine, training centers for allied health professions (defined in section 795), and other educational institutions—

"(1) to meet the cost of special projects to plan, develop, demonstrate, and evaluate curriculums or establish new programs or modifications of existing programs of education, to train physicians to coordinate teams of health care personnel engaged in providing comprehensive health care on an ambulatory basis; or

"(2) to meet the cost of developing curriculums and training programs for new levels or types of health professions, nurses and allied health professions needed to staff comprehensive ambulatory health care centers (defined in section 645); or

"(3) to meet the cost of planning experimental teaching facilities or other facilities necessary to initiate, strengthen, improve, or expand programs to train persons to administer and staff such comprehensive ambulatory health care centers.

"Applications for Grants

"(c)(1) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under subsection (b) for any fiscal year must be filed.

"(2) To be eligible for a grant under this part, the applicant must (A) be a public or other nonprofit school of medicine, training center for allied health professions, or other educational institution which includes or is affiliated with a comprehensive ambulatory health care center (defined in section 645), and (B) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause (B) shall be deemed to be satisfied if in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

"(3) The Secretary may approve any application for a grant under this part if he determines, after giving due consideration to any relevant findings or recommendations of the Council of Health Policy Advisers, that the proposed grant will serve to alleviate the shortage of health care personnel.

"(4) A grant under this part may be made only if the application therefor—

"(A) is approved by the Secretary upon his determination that the applicant meets the eligibility conditions set forth in subsection (c)(2) of this section;

"(B) contains such additional information as the Secretary may require to make the determinations required of him under this part and such assurances as he may find necessary to carry out the purposes of this part; and

"(C) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

"(5) In determining priority of projects, applications for which are filed under subsection (c)(1) of this section, the Secretary shall give consideration to—

"(A) the extent to which the project will increase enrollment of full-time students receiving the training for which grants are authorized under this part;

"(B) the relative need of the applicant for financial assistance;

"(C) the extent to which the project may result in development of curriculum, curriculum improvement, or improved methods of training or will help to reduce the period or required training without adversely affecting the quality thereof; and

"(D) the health care needs of the Nation and the extent to which the proposed project will assist in the alleviation of shortages in health care personnel."

SEC. 204. GRANTS TO PERSONNEL IN THE HEALTH PROFESSIONS, ALLIED HEALTH PROFESSIONS, AND NURSING FOR SERVICE IN AREAS OF CRITICAL NEED

(a) AUTHORITY TO MAKE GRANTS.—Title VII of the Public Health Service Act is amended by adding after section 799B (as added by this Act) the following new part J as follows:

"PART J—GRANTS TO PERSONNEL IN THE HEALTH PROFESSIONS, ALLIED HEALTH PROFESSIONS, AND NURSING FOR SERVICE IN AREAS OF CRITICAL NEED

"SEC. 799C. (a) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, and $50,000,000 for each of the fiscal years in the period beginning July 1, 1973, and ending June 30, 1977, for the establishment and operation of a special fund from which the Secretary shall make grants to personnel in the health professions, allied health professions, and nursing for the purpose of alleviating the maldistribution of such health care personnel and improving health care services in areas having a critical need for such personnel.

"Applications for Grants

"(b)(1) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) before which applications for grants under this part for any fiscal year must be filed.

"(2) To be eligible for a grant under this part, the applicant must be (A) a health professional, allied health professional, or nurse, or (B) a person engaged in a course of training who will, at the time the grant is to commence, be a health professional, allied health professional, or nurse.

"(3) Applications for grants from the special fund established by this part may be approved by the Secretary only if—

"(A) the applicant is qualified by education and training to provide a type of health care service determined by the Secretary, upon recommendation of the appropriate State comprehensive health planning agencies, to be needed in areas which have critical health manpower shortages;

"(B) the applicant agrees to perform health care services in an area of a State which has been designated by the Secretary, upon recommendation of the appropriate State comprehensive health planning agency, as having a critical need for such health professional, allied health professional, or nurse; and

"(C) the application contains reasonable assurance that the applicant will provide health care services in an area of critical need for a period of not less than two years.

"(4) Any application for a grant filed by a person mentioned in subsection (b)(2)(B) may be approved by the Secretary only on the condition that such applicant shall have met the qualifications of subsection (b)(2)(A) and subsection (b)(3) at or before the time the grant is to commence.

"GRANTS FOR SERVICE IN AREAS OF CRITICAL MANPOWER SHORTAGES

"(c) The Secretary or his designee is authorized to enter into individual contracts with applicants approved pursuant to subsection (b) of this section. Such contracts shall provide for the payment of grants from the special fund established under this part and shall provide for payment to be made quarterly on an annualized basis. Such contracts shall also specify that at the end of each contract year an additional payment shall be made, if necessary, in an amount sufficient to guarantee that the applicant receives, from all payments made under this part with respect to the contract year and all other income derived during the contract year from providing health care services in the area of critical need, a total amount equal to at least 110 per centum of the national annual median income for persons of comparable education and training or 110 per centum of the applicant's earnings from providing health care services in the previous year, whichever is greater.

"In determining the actual amount of a

grant under this part the Secretary or his designee shall take the following factors into account:

"(1) the national median annual income for the applicant's profession, determined in accordance with regulations;

"(2) the cost of living in the area in which the applicant is to serve;

"(3) the background, training, and education of the applicant;

"(4) the amount of income the applicant can reasonably expect to receive from service in the area of critical need;

"(5) the number of persons of the applicant's profession needed in the area of critical need;

"(6) where appropriate, all or part of the reasonable cost of equipment, supplies, and facilities; and

"(7) such other factors as the Secretary deems reasonable."

(b) CONFORMING AMENDMENT. — Section 329(b)(1) of the Public Health Service Act is amended by inserting after "(A) designate" the phrase "upon recommendation of the appropriate comprehensive health planning agencies,".

TITLE III—PROVISIONS TO ENCOURAGE COMPREHENSIVE AMBULATORY HEALTH CARE CENTERS

SEC. 301. AMENDMENT OF PURPOSE.

Section 600(a) of the Public Health Service Act is amended by inserting ", including comprehensive ambulatory health care centers" immediately after "other medical facilities".

SEC. 302. AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION AND MODERNIZATION ON GRANTS

Effective with respect to each of the five fiscal years beginning after June 30, 1973, section 601 of the Public Health Service Act is amended by adding after subsection (c) the following new subsection:

"(d) $200,000,000 for grants for the construction and modernization of comprehensive ambulatory health care centers, and for those administrative, operating, and maintenance costs during the first three years of operation of such centers as may be approved by the Secretary."

SEC. 303. STATE ALLOTMENTS

Effective with respect to appropriations pursuant to section 601 of the Public Health Service Act for fiscal years beginning after June 30, 1973, section 602(a)(1) of such Act is amended to read as follows:

"(a)(1) Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 601(a), to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 601(b), and to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 601(d), as the product of—

"(A) the population of such State, and

"(B) the square of its allotment percentage, bears to the sum of corresponding products for all of the States."

SEC. 304. PRIORITY OF PROJECTS

Section 603(a) of the Public Health Service Act is amended by adding after subparagraph (7) thereof the following new subparagraph:

"(8) in the case of projects for the construction of comprehensive ambulatory health care centers, to facilities located in densely populated areas where such facilities do not now exist, as determined by the Secretary."

SEC. 305. STATE PLANS

(a) Section 604(a)(4) of the Public Health Service Act is amended by redesignating subparagraphs (D) and (E) thereof as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) thereof the following new subparagraph:

"(D) the comprehensive ambulatory health care centers needed to provide adequate ambulatory health care services for patients residing in the State, including many services which traditionally have been rendered in hospitals, and a plan for distribution of such centers throughout the State."

(b) Section 604(a)(5) of the Public Health Service Act is amended by inserting "comprehensive ambulatory health care centers" immediately after "outpatient facilities."

SEC. 306. RECOVERY OF FUNDS

Section 609(b) of the Public Health Service Act is amended by inserting "comprehensive ambulatory health care center," immediately after "outpatient facility,".

SEC. 307. LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF COMPREHENSIVE AMBULATORY HEALTH CARE CENTERS

Section 621 of the Public Health Service Act is amended by inserting "comprehensive ambulatory health care centers," immediately after "outpatient facilities," in paragraphs (1) and (2) of subsection (a) thereof.

SEC. 303. DEFINITION OF COMPREHENSIVE AMBULATORY HEALTH CARE CENTER

Section 645 of the Public Health Service Act is amended by adding after paragraph (1) the following new paragraph:

"(m) The term 'comprehensive ambulatory health care center' means a facility (located in or apart from a hospital and whether or not part of a health maintenance organization) which is organized, equipped, and staffed so as to provide to individuals and families, on a coordinated and continuing basis, a broad range of ambulatory health services, and which:

"(1) has a staff of physicians licensed to practice medicine who provide medical and surgical care for patients not requiring hospitalization;

"(2) possess or has reasonable access to one or more operating rooms and appropriate recovery rooms, adequately equipped and staffed, in accordance with standards promulgated by the Secretary, to perform those surgical procedures which can be safely performed on a nonconfinement basis;

"(3) is equipped to provide a broad range of diagnostic tests, including X-rays and electrocardiograms, and either has its own laboratory facilities or has reasonable access to such facilities;

"(4) maintains a unified medical record, stored in a central file, for each patient treated in such facility;

"(5) has arrangements with a general hospital and, to the extent possible, with convalescent institutions, home health agencies, and custodial care institutions to assure that services of such institutions will be available to patients of such facility when they can no longer be treated on an ambulatory basis;

"(6) provide preventive care services, including a health education program;

"(7) has a program of peer review to assure quality care and efficient utilization of services; and

"(8) has a program to utilize allied health personnel to assist its professional staff to the maximum extent practicable."

TITLE IV—PROVISIONS TO STRENGTHEN COMPREHENSIVE HEALTH PLANNING

SUBTITLE A—HEALTH REPORT OF THE PRESIDENT; COUNCIL OF HEALTH POLICY ADVISERS

SEC. 401. HEALTH REPORT OF THE PRESIDENT.

The President shall transmit to the Congress not later than July 1 of each year, beginning in 1974, a health report (hereinafter referred to as the "Health Report") which shall set forth (1) the status and condition of the health care system of the Nation; (2) current and foreseeable trends in the health care needs of the Nation, the organization, financing, delivery, and quality of health care services, and the effects of those trends on the health of Americans and the social, economic, and other requirements of the Nation; (3) the adequacy of available manpower and physical resources for fulfilling the health care needs of the Nation in the light of expected population pressures; (4) a review of the health programs and activities of the Federal Government, the State and local governments, and nongovernmental entities, with particular reference to their contribution the achievement of the policy set forth in title I of this Act; and (5) a program for carrying out the policy set forth in title I of this Act, together with recommendations for legislation.

SEC. 402. COUNCIL OF HEALTH POLICY ADVISERS.

There is created in the Executive Office of the President a Council of Health Policy Advisers (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments is exceptionally well qualified to analyze and interpret trends in the health care field; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; and to formulate and recommend national policies to promote the improvement of health care.

SEC. 403. EMPLOYMENT OF OFFICERS, EMPLOYEES, EXPERTS AND CONSULTANTS

The Council is authorized to employ and fix the compensation of such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary to carry out its functions under this Act in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

Sec. 404. RESPONSIBILITIES OF COUNCIL

(a) GENERAL FUNCTIONS AND DUTIES.—It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Health Report;

(2) to review and appraise the health programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which programs and activities are contributing to the achievement of such policy, and to make recommendations with respect thereto;

(3) to develop and recommend procedures for the interagency coordination of Federal health programs, to propose interagency consolidations of programs and eliminations of programs to assure efficient, effective, and economic operation of all Federal health programs and to avoid waste and duplication;

(4) to develop and recommend goals for a national policy to foster and promote the improvement of the organization, financing, delivery and quality of the Nation's health care;

(5) to conduct studies, survey, research, and analyses relating to health care in the Nation;

(6) to conduct a continuous evaluation of policies and programs related to the Nation's health care and make recommendations for the revision, expansion, and improvement of such policies and programs, including the assignment of priorities to the implementation of such recommendations in accordance with their relative urgency or desirability;

(7) to develop and recommend measures designed to assure the provision of adequate manpower, services, and facilities for the Nation's health care, including the mobilization, allocation, utilization, and retention of such manpower, services, and facilities;

(8) to develop and recommend guidelines for the allocation of funds for health care designed to furnish all citizens equal access to quality health care; and

(9) to make and furnish such studies, reports thereon, and recommendations with respect to matters of health care policy and legislation as the President may request.

(b) ANNUAL HEALTH REPORT TO THE PRESIDENT.—The Council shall submit to the President a first report not later than April 1, 1974, and an annual report not later than April 1 of each year thereafter. Each such report shall also be transmitted to the Congress supplementary to the next Health Report of the President.

(c) CONTENTS OF INITIAL ANNUAL HEALTH REPORTS.—In its first report and in the first of its annual reports to the President as required by subsection (b) of this section, the Council shall (1) specially report on all Federal programs which provide grants, loans, or other financial aids for the training and development of health manpower of any type; (2) appraise the adequacy of such programs to meet the health care needs of the Nation; (3) develop and recommend procedures for the consolidation, coordination, expansion, and improved efficiency of administration of such existing programs; and (4) develop and recommend measures designed to assure the wider dissemination of public information regarding the existence and purpose of such programs, the aids available thereunder, and the advantages and benefits of training for career opportunities in the health, nursing, and allied health professions.

SEC. 405. CONSULTATION WITH OTHER ADVISORY BODIES AND REPRESENTATIVE GROUPS; COOPERATIVE UTILIZATION OF SERVICES, FACILITIES, AND INFORMATION

In exercising its powers, functions, and duties under this Act, the Council shall—

(1) consult with the National Advisory Health Council established by section 217(a) of the Public Health Service Act, with any other advisory council or committee required or permitted to be created under any provision of the Public Health Service Act, and with such representatives of consumer groups, providers of health care, health researchers and educators, insurers, health service organizations, public agencies concerned with health care, voluntary health and welfare organizations, and other groups, as it deems advisable;

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

SEC. 406. COMPENSATION OF MEMBERS

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

SEC. 407. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated such sums, not to exceed $1,000,000 in any fiscal year, as may be necessary to enable the Council to carry out its functions under this Act.

SUBTITLE B—DEPARTMENTAL RECOMMENDATIONS AND REPORTS

SEC. 411. STATEMENTS REGARDING EFFECT OF DEPARTMENTAL PROPOSAL ON NATION'S HEALTH CARE

(a) The Congress authorizes and directs that, to the fullest extent possible, all agencies of the Federal Government shall include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting human health and the organization, financing, delivery, and quality of the Nation's health care, whether with regard to all citizens generally or only to classes or segments of the public, a detailed statement by the responsible official on—

(1) the impact of the proposed action on human health and the Nation's health care system;

(2) any adverse effects which cannot be avoided should the proposal be implemented;

(3) alternatives to the proposed action;

(4) the relative priority, if any, assigned to the proposed action (or to any similar or alternative proposal designed to fulfill the same immediate purpose or need) by the Council of Health Policy Advisers established by subtitle A of this title in its most recent report to the President submitted pursuant to section 404(b) thereof; and

(5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(b) Prior to making any detailed statement required by subsection (a) the responsible Federal officials shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any impact on human health and the Nation's health care system. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies which have responsibilities in such areas shall be made available to the President, the Council of Health Policy Advisers and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes.

SEC. 412. AGENCY OBLIGATIONS UNDER OTHER FEDERAL STATUTES

Nothing in section 411 shall in any way affect the specific statutory obligations of any Federal agency (1) to accord priorities or preferences to applications for Federal financial aids in public health and health care programs and activities, based on factors required to be considered by law or regulations pursuant thereto, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting, contingent upon the recommendations or certification of any other Federal or State agency.

SUBTITLE C—COMPREHENSIVE HEALTH PLANNING AMENDMENTS

PART A—DEFINITION OF "APPROPRIATE COMPREHENSIVE HEALTH PLANNING AGENCY"

SEC. 431. APPROPRIATE COMPREHENSIVE HEALTH PLANNING AGENCY DEFINED

Section 2 of the Public Health Service Act is amended by—

(1) redesignating subsections (m), (n); (o), (p), and (q) thereof as subsections (n), (o), (p), (q), and (r), respectively; and

(2) adding after subsection (1) thereof a new subsection (m) as follows:

"(m) The term 'appropriate comprehensive health planning agency' shall have the meaning assigned to it by section 314(h)(4)(C) of this Act;"

PART B—STATE AND AREAWIDE COMPREHENSIVE HEALTH PLANNING AGENCIES

SEC. 441. STATE AGENCY REVIEW AND CERTIFICATION

Section 314(a)(2) of the Public Health Service Act is amended by—

(1) redesignating subparagraphs (D), (E), (F), (G), (H), (I), (J), and (K) thereof as subparagraphs (E), (F), (G), (H), (I), (J), (K), and (L), respectively; and

(2) adding after and below subparagraph (C) thereof a new subparagraph (D) as follows:

"(D) provide for the performance of the functions assigned to it by subsection (c)(3) of this section with respect to certification by the appropriate comprehensive health planning agency;"

SEC. 442. AREAWIDE COMPREHENSIVE HEALTH PLANNING AGENCIES

Section 314(b) of the Public Health Service Act is amended to read as follows:

"PROJECT GRANTS FOR AREAWIDE HEALTH PLANNING

"Grants for Areawide Agency Authorization of Appropriation

"(b)(1)(A) The Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1975, to make, with the approval of the State agency administering and supervising the administration of the State plan approved under subsection (a) of this section, project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or a combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for the provision of each such services and including the provision of services through home health care; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. For the purposes of carrying out this subparagraph (A), there are hereby authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

"Grants for State Agency Acting in Areawide Planning

"(B) Project grants may be made by the Secretary under subparagraph (A) with respect to a particular region or area to the State agency designated or established pursuant to subsection (a), but only if (i) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor, and (iii) such State agency has made or will make provision for acting as the appropriate comprehensive health planning agency with respect to such region or area for the purposes of subsection (c) of this section.

"Planning agency representation, interests of hospitals, and other facilities, and physicians

"(2) No grant may be made under paragraph (1)(A) after June 30, 1973, to any agency or organization to develop or revise health plans for an area unless the Secretary determines that such agency or organization provides means for representation of the interests of hospitals, other health care facilities and practicing physicians serving the general public.

"Additional grant conditions

"(3) No grant may be made under paragraph (1) after June 30, 1973, to any such agency or organization unless the application therefor contains or is supported by reasonable assurance that—

"(A) there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council, which shall include representatives of public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health (including representatives of the interests of local government, of the regional medical program for such area, and of consumers of health services), and that a majority of the members of such council are or will be representatives of consumers of health services;

"(B) such agency or organization had made or will make provision for determining the present and future health needs of its area on a continuing basis;

"(C) such agency or organization has developed or will develop measures designed to coordinate all health care facilities and programs in its area to the fullest extent possible and to assist such facilities in (i) planning their programs for capital expenditures for replacement, modernization, and expansion, consistent with the State plan approved under subsection (a), (ii) developing efficient systems of administration, (iii) incorporating in such systems incentives for optimum use of manpower, facilities, and equipment, (iv) entering into agreements with other facilities and institutions, where feasible, for the combined purchasing of equipment and the cooperative use of services and facilities, and (v) adopting and instituting such other management techniques appropriate to the use of health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner;

"(D) such agency or organization has made or will make provision, when it acts as the appropriate comprehensive health planning agency, for reviewing, commenting on, and, as appropriate, making certifications as to the applications referred to in subsection (c) and pursuant to the procedures set forth therein; and

"(E) such agency or organization will make provision for (i) consulting with the areawide health planning council, and other groups as it deems advisable, in connection with the carrying out of its assurances pursuant to this subsection, (ii) enlisting public support for the areawide plan as developed and from time to time revised, and (iii) educating the public in its area concerning the proper use of the facilities and services available therein."

SEC. 443. COMPREHENSIVE PROCEDURE FOR REVIEW AND CERTIFICATION.

Section 314 of the Public Health Service Act is further amended by—

(1) redesignating subsections (c), (d), (e), (f), and (g) thereof as subsections (d), (e), (f), (g), and (h), respectively; and

(2) inserting after subsection (b) thereof a new subsection (c) as follows:

"(c) When any provision of law or regulation pursuant thereto requires that an application for a Federal grant, loan, loan guarantee, or other Federal financial aid may be approved by the Secretary or other responsible Federal official only after certification by the appropriate comprehensive health planning agency and the application involves an amount in excess of $100,000, the Secretary or such other responsible official may not approve any such application unless he is satisfied (on the basis of evidence contained in or submitted in connection with the application) that—

"(1) reasonable opportunity for review of and comment on such application has been provided to the appropriate comprehensive health planning agency;

"(2) such agency (if it is not the State agency designated or established pursuant to subsection (a)(2)(A)), after review, has communicated its comments in writing to both the person making application and such State agency and, if the appropriate comprehensive health planning agency recommends approval of the application, has made certification as to the essential need for and high priority of the project in the region, metropolitan area, or other local area, as the case may be;

"(3) the State agency designated or established pursuant to subsection (a)(2)(A) has certified as to the need for and priority of the project under the State plan approved pursuant to subsection (a), either (i) following its own initial review and comment on the application as provided in clause (1) hereof, (ii) following initial review and comment, and certification of need and priority by the appropriate comprehensive health planning agency, as provided in clause (2) hereof, or (iii) if such appropriate comprehensive health planning agency initially received the application but has withheld certification and approval, following the holding by such State agency of a public hearing thereon within the area concerned at which the person making application and such other agency were afforded an opportunity to present views on the application;

"(4) the application is for a project which is entitled to priority over other projects within the State under the State plan approved pursuant to subsection (a);

"(5) if the area for planning of the agency referred to in clause (2) hereof includes areas in two or more States, the State agency for each State designated or established pursuant to subsection (a)(2)(A) has made a separate certification to the need for and priority of the project within such State."

SEC. 444. DEFINITIONS: "APPROPRIATE COMPREHENSIVE HEALTH PLANNING AGENCY" AND VARIOUS OTHER DEFINITIONS RELATING TO FEDERAL ASSISTANCE

Section 314(h) of the Public Health Service Act (formerly section 314(g) thereof as redesignated by section 443 of this Act) is amended by—

(1) striking out "subsection (d) of this section" in clause (1) thereof and inserting in lieu thereof "subsection (e)";

(2) striking out "subsection (a) or (d) of this section" in each of clauses (2) and (3) thereof and inserting in lieu thereof at each place "subsection (a) or (e) of this section";

(3) striking out "and" at the end of subparagraph (A) of clause (4) thereof;

(4) deleting the period at the end of subparagraph (B) of such clause (4) and inserting in lieu thereof a semicolon; and

(5) inserting after subparagraph (B) of such clause new subparagraphs (C) and (D) as follows:

"(C) The term 'appropriate comprehensive health planning agency' means—

"(i) in the case of a project affecting an entire State, the State agency designated or established pursuant to subsection (a)(2)(A), or

"(ii) in the case of a project affecting a region, metropolitan area, or other local area, either the agency or organization which has received a project grant with respect to such area pursuant to subsection (b)(1)(A), the State agency which has received a project grant with respect to such area pursuant to subsection (b)(1)(B), or such other public or nonprofit private agency which is determined in accordance with regulations to be performing health planning functions for such area similar to those performed by an agency or organization of the kind referred to in subsection (b)(1)(A); and

"(D) As used in subsection (c), the term 'other Federal financial aid' includes a Federal contract; the term 'application' with reference to a contract includes a bid, offer, or proposal to contract; and the term 'project' means the object of the Federal grant, loan, loan guarantee, or other Federal financial aid, whether such object be facilities or goods, services, training or scholarship."

TITLE V—PROVISIONS TO MAKE COMPREHENSIVE HEALTH CARE INSURANCE AVAILABLE TO ALL

SUBTITLE A—ESTABLISHMENT OF MINIMUM STANDARD HEALTHCARE BENEFITS

SEC. 501. DEFINITION OF MINIMUM STANDARD HEALTHCARE BENEFITS

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by redesignating section 219 as section 220, and by inserting after section 218 the following new section:

"SEC. 219. MINIMUM STANDARD HEALTHCARE BENEFITS.

"(a) IN GENERAL.—For purposes of this title and title XX of the Social Security Act, the Minimum Standard Healthcare Benefits shall, subject to the other provisions of this section, be equal to the amount by which the charges for services and articles listed in subsection (b) exceeds the copayments specified in subsection (b) (or, if applicable, exceeds the deductible plus the copayments specified in section 213 or 280, as the case may be). The priority (I, II, III) applicable to any given benefit is as indicated in the description of that benefit in subsection (b), except as provided in subsection (c)(2).

"(b) SERVICES AND ARTICLES COVERED.—The charges, copayments, and priorities referred to in subsection (a) are as follows:

"(1) Charges made by a licensed physician for professional services rendered—

"(A) at a physician's office, by the physician or, at his direction, by his staff of nurses (RN) and allied health professionals—

"(i) for diagnosis or treatment of one or more conditions (other than diagnosis or treatment by surgery or radiation therapy),

"(I) on the first 3 days of such care per year per individual (copayment $2 per day per physician's office; priority I),

"(II) on the next 3 days of such care per year per individual (copayment $2 per day per physician's office; priority II), and

"(III) on any additional day of such care per year per individual (copayment 50 percentum for mental conditions and $2 per day per physician's office for all other conditions; priority III);

"(ii) for one or more surgical procedures for diagnosis or treatment of conditions (including any charge for anesthesia or the administering thereof, for casts, dressings or other surgical supplies, or for any postoperative visit)—all days of such care per year per individual (copayment $2 per day per physician's office; priority I);

"(iii) for radiation therapy for treatment of conditions by X-ray or radioactive materials (including the charges for such materials)—all days of such care per year per individual (copayment $2 per day per physician's office; priority I);

"(iv) for diagnostic tests (including X-

rays, electrocardiograms, and laboratory tests) required in connection with services described in clause (i), (ii), or (iii) or in subparagraph (B) (copayment none; priority I);

"(v) for counseling on birth control or fitting of contraceptive devices (copayment none; priority II);

"(vi) for periodic health examinations (including immunizations)—

"(I) for an infant under age 5 (well baby care)—

"(a) during the first 6 months following birth, the first six such examinations (copayment none; priority I);

"(b) during the next 18 months, the first six such examinations (copayment none; priority II), and

"(c) during the next 3 years, the first three such examinations (copayment none; priority III);

"(II) for an individual age 5 through 39, one such examination every 5 years (copayment none; priority III); and

"(III) for an individual age 40 or over, one such examination every 2 years (copayment none; priority III);

"(vii) for physical therapy (copayment 20 percent; priority II); and

"(viii) for speech therapy (copayment 20 percent; priority III);

"(B) at the individual's home or elsewhere (other than at a hospital, skilled nursing facility, or the physician's office), by the physician, for diagnosis or treatment of one or more conditions (copayment 50 percent for mental conditions and $5 per day per physician for all other conditions; priority III);

"(C) at a hospital, by the physician, for the diagnosis or treatment of one or more conditions—

"(i) during the first 30 days of a confinement (copayment $2 per day, applicable only to the charges of the attending physician; priority I),

"(ii) during the 31st through 120 days of a confinement (copayment $2 per day, applicable only to the charges of the attending physician; priority II),

"(iii) during the 121st through 300th day of a confinement (copayment $2 per day, applicable only to the charges of the attending physician; priority III),

"(iv) on any day of a confinement for which no hospital benefit is payable under paragraph (6)(A) (copayment $5 per day per physician; priority I); and

"(v) on any day when no confinement is involved (the copayment and the priority are the same as those that would be applicable had the service been rendered at the physician's office); or

"(D) at a skilled nursing facility, by the physician, for the diagnosis or treatment of one or more conditions—

"(i) during the first 60 days of a confinement (copayment $2 per day, applicable only to the charges of the attending physician; priority I),

"(ii) during the 61st through 120th days of a confinement (copayment $2 per day, applicable only to the charges of the attending physician; priority II),

"(iii) during the 121st through 180th days of a confinement (copayment $2 per day, applicable only to the charges of the attending physician; priority III),

"(iv) on any day of a confinement for which no skilled nursing facility benefit is payable under paragraph (7)(A) (copayment $5 per day per physician; priority I), and

"(v) on any day when no confinement is involved (the copayment and the priority are the same as those that would be applicable had the service been rendered at the physician's office).

"(2) Charges by a qualified independent laboratory for laboratory examinations performed by it and prescribed by a licensed physician pursuant to his rendering the services described in paragraph (1)(A)(i), (ii), and (iii) and paragraph (1)(B) copayment none; priority I).

"(3) Charges by a licensed dentist for professional services rendered either by the dentist or at his direction by his office staff of allied health professionals for—

"(A) one annual oral examination, including prophylaxis and dental X-rays, for—

"(i) an individual under age 19 (copayment none; priority II), or

"(ii) an individual age 19 or over (copayment none; priority III);

"(B) amalgam fillings, extractions or dentures for—

"(i) an individual under age 19 (copayment 20 percent; priority II), or

"(ii) an individual age 19 or over (copayment 20 percent; priority III); or

"(C) other dental care, except orthodontia (copayment 50 percent; priority III).

"(4) Charges for the following when prescribed by a licensed physician—

"(A) drugs requiring a prescription, and insulin, digitalis, and such other life-preserving nonlegend drugs as may be specified in regulations, but only to the extent that such prescription and other drugs are not furnished by a hospital for use during a confinement (copayment $1 per prescription; priority II);

"(B) contraceptives for birth control requiring a prescription (copayment $1 per prescription; priority III):

"(C) prostheses (copayment 20 percent; priority II);

"(D) services of physical therapist (copayment 20 percent; priority II); or

"(E) services of speech therapist (copayment 20 percent; priority III).

"(5) Charges for the following vision care services—

"(A) eye refractions by a licensed physician or optometrist for—

"(i) an individual under age 19, no more than one examination per year (copayment none; priority III), or

"(ii) an individual age 19 or over, no more than one examination every three years (copayment 50 percent; priority III); or

"(B) eyeglasses newly prescribed by a licensed physician or optometrist, including contact lenses only when required as an integral part of intraocular surgery, for—

"(i) an individual under age 19, no more than one set of frames and lenses per year (copayment none; priority III), or

"(ii) an individual age 19 and over, no more than one set of frames and lenses every 3 years (copayment 50 percent; priority III).

"(6) Charges by a hospital for—

"(A) ward or semi-private accommodations and ancillary services (other than charges referred to in paragraph (4) (except subparagraph (A)) and (5)) used during a confinement for one or more conditions—

"(i) during the first 30 days of the confinement (copayment $5 per day; priority I),

"(ii) during the 31st through 120th days of the confinement (copayment $5 per day; priority II), and

"(iii) during the 121st through 300th days of the confinement (copayment $5 per day; priority III), and

"(B) services rendered by it on any day when no confinement is involved (the copayment and the priority are the same as those that would be applicable had the services been charged for by a licensed physician and rendered at his office).

"(7) Charges (other than changes referred to in paragraph (4) and (5)) by a skilled nursing facility for—

"(A) ward or semi-private accommodations and ancillary services used during a confinement for one or more conditions—

"(i) during the first 60 days of the confinement (copayment $2.50 per day; priority I),

"(ii) during the 61st through 120th days of the confinement (copayment $2.50 per day; priority II), and

"(iii) during the 121st through 180th days of the confinement (copayment $2.50 per day; priority III); or

"(B) services rendered by it on any day when no confinement is involved (the copayment and the priority are the same as those that would be applicable had the services been charged for by a licensed physician and rendered at his office).

"(8) Charges by a home health agency for home health services (other than charges referred to in paragraph (4) and (5)) rendered by it under a plan—

"(i) during the first 90 days of the plan (copayment $2.50 per day of services rendered; priority I),

"(ii) during the 91st through the 180th days of the plan (copayment $2.50 per day of services rendered; priority II), and

"(iii) during the 181st through 270th days of the plan (copayment $2.50 per day of services rendered; priority III).

"(c) Special Rules.—In applying subsection (b)—

"(1) Pregnancy Copayment and Priority.—When any service or article is furnished in connection with a pregnancy or any complication thereof during the period beginning with the date of inception of the pregnancy and ending with the 90th day after termination of the pregnancy, the copayment is 20 percent in lieu of the amount specified in subsection (b) and the priority is priority II in lieu of the priority specified in subsection (b);

"(2) Catastrophic Benefit Priority.—When a catastrophe is sustained by a covered individual, the priority of every benefit described in subsection (b) shall in respect of such individual thereafter be priority I in lieu of any other priority specified in subsection (b).

"(3) In determining the period of any confinement for purposes of subsection (b), any two or more periods of confinement shall be considered a single period of confinement unless separated by at least 60 days without any confinement for any cause.

"(d) Exclusions.—The charges specified in subsection (b) do not include any of the following:

"(1) any charge for any care for any injury or disease arising out of and in the course of employment and for which any amount is payable under any workmen's compensation or similar law;

"(2) any charge for hearing aids;

"(3) any charge for treatment for cosmetic purposes;

"(4) any charge for travel (other than travel by local professional ambulance to the nearest health care institution qualified to treat the illness or injury);

"(5) any charge for confinement in a private room to the extent in excess of the institution's charge for its most common semiprivate room; or

"(6) any charge by health care institutions specified in the table to the extent that it is determined under section 2008 of title XX of the Social Security Act that the charge exceeds the rates approved thereunder, or any charge for services or supplies rendered or prescribed by a physician, dentist, or other health care personnel specified in subsection (b) to the extent that it is determined under the procedures established in section 2002(f)(2) of title XX of the Social Security Act that the charge is unreasonable or that the services or supplies for which the charge is made are not necessary.

"(7) any charge for the treatment of flat foot conditions or the prescription of supportive devices therefor, the treatment of subluxations of the foot, or routine foot care (including the cutting or removal of corns or calluses, the trimming of nails, and other routine hygienic care) except when the pa-

tient is being treated for a peripheral-vascular disease that is so severe that routine foot care not under the direct supervision of a physician would be hazardous to the patient; or

"(8) any charge for orthoptics (eye exercises).

"(e) Definitions.—In applying this section—

"(1) The term 'physician' means a doctor of medicine (M.D.), doctor of osteopathy (D.O.), doctor of podiatry (D.P.M.) and, for purposes of oral surgery only, a doctor of dental surgery(D.D.S.) or a doctor of medical dentistry (D.M.D.).

"(2) The term 'physician's office' means any facility in which the physician usually treats his ambulatory patients. For purposes of determining the amount of copayment due in subsection (b), a physician shall be considered to have a separate office unless he is a member of a group of physicians who have joined together under a contractual arrangement and bill as a single entity, in which case the group of physicians shall be considered to have a single 'physician's office.'

"(3) The term 'attending physician' means the physician having primary responsibility for the medical care rendered the individual.

"(4) The term 'skilled nursing facility', 'home health agency' and 'hospital' (herein referred to as 'health care institutions'), and 'home health services' shall have the meanings as assigned to them in section 1861 of the Social Security Act.

"(5) The term 'licensed' means that the practitioner or health care institution is legally authorized by the State to provide the services rendered in that State.

"(6) The term 'copayment' means the portion of a charge that is not payable by a qualified healthcare plan and which is thus the obligation of the covered individual concerned to pay.

"(7) The term 'covered individual' means an individual who is covered under a qualified healthcare plan, except that an individual covered under a Qualified Employee Healthcare Plan who is not required to be so covered pursuant to section 280(c)(5) shall not be treated as a covered individual unless he is eligible under such plan for at least the Minimum Standard Healthcare Benefits.

"(8) The term 'qualified healthcare plan' means a Qualified Employee Healthcare Plan (as defined in section 280(c) of the Internal Revenue Code of 1954), a Qualified Individual Healthcare Plan (as defined in section 213(g) of the Internal Revenue Code of 1954) and a Qualified State Healthcare Plan (as defined in section 2002 of the Social Security Act).

"(9) The term 'confinement' means confinement on an inpatient basis in a health care institution.

"(10) The term 'catastrophe' means, in the case of any covered individual, the incurring of $5,000 or more of charges for his medical care rendered while a covered individual under one or more qualified healthcare plans and within a period of 12 consecutive calendar months. For purposes of this paragraph, charges shall be taken into account only if and to the extent they would be required to be covered, without regard to any deductibles or copayments, under a qualified healthcare plan, were priorities I, II, and III, described in subsection (b), all in effect.

"(f) Presidential Power to Defer Phase-In of Benefits.—The President of the United States, after receiving from his Council of Health Policy Advisers the Council's Annual Health Report for any year, may find that there are not then in being in the Nation sufficient health care facilities and services to supply any benefit included in the Minimum Standard Healthcare Benefits having a priority designation such that the benefit is not then required (under the applicable provisions of law otherwise fixing the time for phase-in of such benefit) to be provided as a condition to qualification of a qualified healthcare plan. If he so finds, the President may, by Executive order issued not less than 12 months prior to the time otherwise scheduled for phase-in of such benefit under such a plan, defer to some new date the time for phase-in of such benefit. If the President, by Executive order issued by him pursuant to the provisions of the preceding sentence, defers the time otherwise scheduled for phase-in of a benefit under such a plan, no such benefit shall be required to be provided under such a plan until the new date specified in such Executive order for phase-in of such benefit."

(b) Conforming Clerical Amendment—The table of sections for such part VII is amended by striking out the last item and inserting in lieu thereof—

"Sec. 219. Minimum Standard Healthcare Benefits.

"Sec. 220. Cross references."

SUBTITLE B—QUALIFIED EMPLOYEE HEALTHCARE PLANS

SEC. 511. EMPLOYER'S DEDUCTION FOR EMPLOYEE HEALTH CARE EXPENDITURES

(a) IN GENERAL—Part IX (relating to items not deductible) of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 280. EMPLOYER'S DEDUCTION FOR EXPENDITURES FOR EMPLOYEE HEALTH CARE

"(a) LIMITATION ON DEDUCTION.—Except as provided in subsection (b), no deduction shall be allowed for the disallowed pecentage of any amount otherwise allowable as a deduction for the taxable year under section 162, 212, or 404 for any amount paid or incurred by the taxpayer for medical care of any employee of the taxpayer, the employee's spouse, or any dependent of the employee. The disallowed percentage of the amount referred to in the preceding sentence is—

"(1) 50 percent if the amount is paid or incurred in 1975,

"(2) 75 percent if the amount is paid or incurred in 1976, and

"(3) 100 percent if the amount is paid or incurred after 1976.

"(b) EXCEPTIONS AND LIMITATIONS.—Subsection (a) shall not apply to any amount paid or incurred by the taxpayer—

"(1) Where Employer Maintains Qualified Employee Healthcare Plan.—For any portion of the taxable year during which the taxpayer has in force a Qualified Employee Healthcare Plan which satisfies all the requirements of subsection (c).

"(2) Taxes.—As a tax imposed by the United States, a possession of the United States, a State, or a political subdivision of the foregoing, or by the District of Columbia.

"(3) Medical Care Provided Directly By Employer.—To directly provide medical care, through healthcare personnel who are employees of the taxpayer, principally for employees of the taxpayer, or to acquire or maintain equipment or supplies to be used by such personnel for such purpose.

"(c) QUALIFIED EMPLOYEE HEALTHCARE PLAN DEFINED.—For the purposes of this title, the term 'Qualified Employee Healthcare Plan' means a plan of employee health care benefits (as defined in subsection (d)(4)) which satisfies all of the following requirements:

"(1) In Writing.—The plan must be in writing.

"(2) Adopted by Employer.—The plan must be adopted by the taxpayer employer.

"(3) Communication to Employees.—The terms of the plan must be communicated by the taxpayer to his employees.

"(4) Minimum Standard Healthcare Benefit Priorities.—Except as provided in Section 219(f), the plan must provide at least the Minimum Standard Healthcare Benefits (described in section 219) in accordance with the following schedule:

"(A) Priority I benefits after December 31, 1974;

"(B) Priority I and II benefits after December 31, 1979; and

"(C) Priority I, II, and III benefits after December 31, 1984.

"(5) Eligibility.—The plan must be one under which the individuals eligible to be covered include—

"(A) each qualified employee of the taxpayer,

"(B) any such employee's spouse, and

"(C) any such employee's dependent unmarried child under age 19.

"(6) Coverage Continuation.—The plan must provide for continuation of coverage under each of the following circumstances:

"(A) Coverage for the employee and his covered dependents must be continued for at least 1 month during a labor dispute, with no increase in required contributions and with provision for continuation for up to 11 more months during such labor dispute, subject to the employee not being required to contribute at a rate more than the premium then required under the plan for the coverage of the employee and his covered dependents for such period.

"(B) Upon termination of employment, other than as a result of death of the employee, the employee must be permitted to have coverage under the plan continued for himself and for his covered dependents to the end of the second calendar month following the calendar month in which employment terminated.

"(C) Upon the death of an employee, his covered dependents must be permitted to have coverage under the plan continued to the end of the second calendar month following the calendar month in which death occurred.

"(D) During an employee's absence due to illness or injury, coverage for the employee and his covered dependents must be permitted to continue for up to 30 months from the beginning of such absence.

"(E) Coverage for an employee's dependent unmarried child must be permitted to continue until the child's twenty-first birthday, but only if the child was covered under the plan prior to attaining age 19, became totally disabled prior to that age, and remains so disabled. The employee must not be required to contribute more for such coverage than would have been required were the child a dependent under age 19.

"(F) Any employee or dependent entitled to continuation of coverage under any of the above subparagraphs at a time when the employer changes his plan and who would thereby lose his continuation of coverage, must be eligible under any successor plan for not less than the continuation of the coverage that would have been required to be continued had the prior plan remained unchanged.

"(G) For purposes of this paragraph, a 'covered dependent' is any individual, other than the employee, who by reason of his relationship to the employee was covered as a dependent under the plan just prior to the event described in subparagraph (A), (B), (C), or (D). A child born after the event described in subparagraph (A), (B), (C), or (D) but before the end of the continuation period so specified, shall be deemed a covered dependent. Coverage for a covered dependent shall not be required to be continued beyond the date the dependent would have ceased to be eligible for coverage as a dependent if the event described in subparagraph (A), (B), (C), or (D) had not occurred.

"(H) Notwithstanding subparagraphs (A), (B), (C), and (D), coverage need not be continued for a covered individual beyond the date such individual first becomes eligible for benefits under title XVIII of the Social Security Act.

"(7) COORDINATION OF BENEFITS PROVISIONS.—The plan must include a provision

identical with or substantially similar to the suggested model group antiduplication provision as modified and interpreted in the report of the industry task force on coordination of benefits attached to the report of the C–1 Accident and Health Protection Subcommittee as set forth in volume I of the 1971 proceedings of the National Association of Insurance Commissioners.

"(8) EMPLOYEE ELECTION FOR COVERAGE BY APPROVED HEALTH MAINTENANCE ORGANIZATION.—The plan must permit any employee required to be made eligible for coverage thereunder to elect instead to apply for coverage from any approved health maintenance organization and to have the employer pay toward the cost of coverage by such organization an amount equal to the amount the employer would pay toward the cost of coverage of such employee under the employer's plan. Such election shall be required to be permitted in respect of any particular approved health maintenance organization only if—

"(A) 10 or more eligible employees of the employer so elect and are accepted by such organization, and

"(B) the employer has 50 or more employees who are eligible under paragraph (5)(A) for coverage under the employer's plan.

"(9) OPTIONAL PROVISIONS.—The plan shall not be treated as failing to meet the requirements of this subsection by reason of the inclusion therein of any one or more of the following optional provisions:

"(A) DEDUCTIBLE.—The plan may require a deductible (in addition to the authorized copayments) which may apply before benefits for some or all types of health care expenses are payable. The amount of the deductible may not be greater when a service is rendered on an ambulatory basis than when that service is rendered on an inpatient basis in a hospital or other health care institution. With respect to the charges from which minimum standard healthcare benefits must be provided in any calendar year pursuant to paragraph (4), there shall be a maximum limit on the aggregate of the deductibles for that year for the employee and, if covered, his spouse and eligible children, which shall in no event exceed $100.

"(B) COPAYMENTS.—The plan may require copayments for charges for medical care in excess of any required deductible in an amount not to exceed, as to any given charge, whichever of the following amounts is the higher—

"(i) 20 percent of such charge, or

"(ii) the amount specified in section 219;

except that, with respect to charges for which minimum standard healthcare benefits must be provided in any calendar year pursuant to paragraph (4), the sum of the deductibles and copayments for the calendar year for any employee and, if covered, his spouse and eligible children, shall not exceed $1,000.

"(C) ADDITIONAL BENEFITS AND COVERAGE.—The plan may provide any benefits for medical care in addition to the minimum standard healthcare benefits described in section 219 and may also cover any individual in addition to the individuals required under paragraph (5) to be made eligible for coverage.

"(D) EMPLOYEE CONTRIBUTIONS.—The plan may require employee contributions toward its cost; except that the maximum employee contribution shall not exceed the lesser of—

"(i) 100 percent of the premium rate currently charged under the plan for the employee's coverage either as employee without covered dependents, as an employee with one covered dependent, or as an employee with two or more covered dependents whichever is applicable; or,

"(ii) 10 percent of the excess, if any, of the employee's wages paid by the employer during the preceding calendar month over $167 for an employee without covered dependents, over $250 for an employee with one covered dependent, or over $333 for an employee with two or more covered dependents.

When a plan requires employee contributions, the plan must provide each eligible employee who is not then enrolled a period of at least thirty days each year in which to decide whether to enroll in the plan. An employee who elects not to enroll during any such period will not again be eligible to enroll until the next such period.

"(E) CATASTROPHIC BENEFIT LIMIT.—The plan may, in respect of any covered individual who has incurred a catastrophe (as defined in section 219), limit to $250,000 the benefits payable under the plan between the date the catastrophe occurred and the date priority I, II and III benefits are required for all eligible individuals under qualified healthcare plans.

"(d) Definitions.—For purposes of this sections—

"(1) Employee.—The term 'employee' shall have the meaning prescribed by section 3121 (d).

"(2) Medical Care.—The term 'medical care' shall have the meaning prescribed by paragraph (1) without regard to paragraphs (2) and (3) of section 213(e).

"(3) Dependent.—The term 'dependent' as used in this section in reference to a dependent of an employee means an individual over half of whose support, for the calendar year in which the taxable year of such employee begins, was received from such employee.

"(4) Plan of Employee Health Care Benefits.—The phrase 'plan of employee health care benefits' as used in subsecton (c) includes—

"(A) a contract or contracts of insurance (whether one or more group contracts or a group of individual contracts) covering medical care for employees;

"(B) any uninsured arrangement established by an employer to provide medical care for employees;

"(C) an arrangement to secure medical care for employees from any approved health maintenance organization; and

"(D) any combination of contracts or arrangements described in subparagraphs (A), (B), or (C).

"(5) Approved Health Maintenance Organization.—The term 'approved health maintenance organization' shall have the meaning prescribed by section 2015 (e) of title XX of the Social Security Act.

"(6) Qualified Employee.—The term 'qualified employee' means, with respect to any employer, any employee who—

"(A) has been such an employee for more than 2 calendar months; and

"(B) either—

"(i) is considered to be a full-time employee; or

"(ii) is not considered to be a full-time employee, but who is expected to work at least 20 hours a week for at least 26 weeks during the next 12 months; or

"(iii) is not considered to be a full-time employee, but who has actually worked at least 20 hours a week for at least 26 weeks during the previous 12 months.

"(7) Child.—The term 'child' means a son or daughter of the employee including a legally adopted son or daughter."

(b) Conforming Clerical Amendments.—(1) Section 162(h) of the Internal Revenue Code of 1954 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For limitation on employer's deduction for employee health care, see section 280."

(2) Section 404 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) Cross Reference.—

"For limitation on employer's deduction for employee health care, see section 280."

(3) Section 212 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following cross reference:

"Cross Reference.—

"For limitation on employer's deduction for employee health care, see section 280."

(4) The table of sections for part IX of subchapter B of chapter I of subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 280. EMPLOYER'S DEDUCTION FOR EXPENDITURES FOR EMPLOYEE HEALTH CARE."

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after December 31, 1974.

(2) Certain Collectively Bargained Plans.—In the case of any plan providing benefits for medical care of employees which was established by an employer taxpayer pursuant to an agreement which resulted from collective bargaining between the employer and representatives of his employees and which has not expired at the time specified in paragraph (1), the amendments made by this section shall not apply to such employer taxpayer until the first taxable year beginning after the last date such agreement is in effect or the date two years after the time specified in paragraph (1), whichever such date occurs first.

SUBTITLE C—QUALIFIED INDIVIDUAL HEALTHCARE PLANS

SEC. 521. QUALIFIED INDIVIDUAL HEALTHCARE PLANS

(a) UNLIMITED DEDUCTION FOR MEDICAL INSURANCE EXPENSES OF INDIVIDUAL COVERED BY QUALIFIED HEALTHCARE PLAN.—Section 213 (a)(2) (relating to individual's deduction for medical insurance expense) of the Internal Revenue Code of 1954 is amended to read as follows:

"(2) the sum of—

"(A) an amount (not in excess of $150) equal to one-half of the expenses (other than those deductible under subparagraph (B)) paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents (as defined in section 152); and

"(B) in the case of a taxpayer who at any time during the taxable year is covered under a qualified healthcare plan (as defined in section 219), an amount equal to all the expenses paid during the taxable year for any insurance (whether provided under such qualified healthcare plan or otherwise) which constitutes medical care for the taxpayer, his spouse, or dependents (as defined in section 152), and which constitutes coverage during such portion of the taxable year as the taxpayer is covered by such qualified healthcare plan.

(b) DEFINITION OF QUALIFIED INDIVIDUAL HEALTHCARE PLAN.—Section 213 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) QUALIFIED INDIVIDUAL HEALTHCARE PLAN DEFINED.—For purposes of this title, the term 'Qualified Individual Healthcare Plan' means insurance which covers medical care referred to in subparagraphs (A) and (B) of subsection (e)(1), as modified by paragraphs (2) and (3) of subsection (e), and which satisfies all of the following requirements:

"(1) Minimum Standard Healthcare Benefit Priorities.—Except as provided in section 219(f), the plan must provide at least the Minimum Standard Healthcare Benefits (described in section 219) in accordance with the following schedule:

"(A) Priority I benefits after December 31, 1974,

"(B) Priority I and II benefits after December 31, 1979; and

"(C) Priority I, II, and III benefits after December 31, 1984.

"(2) Contract Requirements.—Each contract of insurance forming a part of the plan must contain provisions—

"(A) which obligate the insurer to renew the contract until the earlier of—

"(i) the date on which the individual in whose name the contract was issued first becomes eligible for coverage under Title XVIII of the Social Security Act, or

"(ii) July 1 of the year in which the insurer shall have given at least one hundred and twenty days prior notice that it is nonrenewing all contracts issued in that state that either then qualify under subsection (g) or previously have so qualified and that it will no longer issue such contracts, and which also reserve to the insurer the right to adjust premium rates by classes in accordance with its experience under the type of contract involved;

"(B) which enable the individual in whose name the contract was issued to secure priority II and priority III benefits at such times as those benefits are required to meet the requirements of paragraph (1) and which provide that the benefits thereof will be subsequently modified to reflect any changes at any time brought about as a result of amendment to the provisions of paragraph (1); and

"(C) which, upon the death of the individual in whose name the contract was issued, permits every other individual then covered under the contract to elect (within such period as shall be specified in the contract) to continue his coverage (under the same or a different contract) until such time as he would have ceased to be entitled to coverage had the individual in whose name the contract was issued lived.

"(3) Optional Provisions.—An insurance contract shall not be treated as failing to meet the requirements of this subsection by reason of the inclusion therein of any one or more of the following optional features:

"(A) Insurance with Other Insurers.—The contract may contain a provision coordinating its benefits with any other contract if such provision is approved by the appropriate regulatory authority of the State of issue.

"(B) Deductibles.—The contract may require the covered individual to pay a deductible before benefits for some or all types of health care charges are payable under the plan. The amount of the deductible may not be greater when a service is rendered on an ambulatory basis than when that service is rendered on an inpatient basis in a hospital or other health care institution.

"(C) Copayments.—The contract may require copayments for charges in excess of any required deductible, in an amount not to exceed, as to any given charge, whichever of the following amounts is the greater:

"(i) 20 percent of such charge, or

"(ii) the amount specified in section 219.

"(D) Additional Benefits.—The contract may provide any benefits for medical care in addition to the Minimum Standard Healthcare Benefits.

"(E) Catastrophic Benefit Limit.—The contract may, in respect of any covered individual who has incurred a catastrophe (as defined in section 219), limit to $250,000 the benefits payable under the contract between the date the catastrophe occurred and the date priority I, II, and III benefits are required for all eligible individuals under qualified healthcare plans."

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1974.

Sec. 522. Procedure for Rulings on Qualification of Employee and Individual Healthcare Plans

In exercise of the power to issue rulings which is vested in him under section 7805 of the Internal Revenue Code of 1954, the Secretary of the Treasury (or his delegate) may accept the determination of the State insurance regulatory authority that a plan of health care benefits filed with and approved by such authority is a plan satisfying all requirements for qualification either as a Qualified Employee Healthcare Plan (as defined in section 280(c) of the Internal Revenue Code of 1954) or as a Qualified Individual Healthcare Plan (as defined in section 213(g) of the Internal Revenue Code of 1954).

Sec. 523. Regulations

Any regulations promulgated by the Secretary of the Treasury (or his delegate) with regard to amendments of the Internal Revenue Code of 1954 made by subtitles A, B, or C of this title shall be promulgated in final form not less than 120 days prior to the first day of the calendar year during which they will apply. Such regulations shall be effective only if (a) promulgated in final form within the time prescribed in the preceding sentence, and (b) notice of such regulation in proposed form and of opportunity for public hearing thereon shall have been published not less than sixty days prior to the date of promulgation thereof in final form.

SUBTITLE D—GRANTS TO STATES FOR QUALIFIED STATE HEALTHCARE PLANS FOR THE NEEDY AND UNINSURABLE

Sec. 531. Grants to States for Qualified Healthcare Plans.

The Social Security Act is amended by adding after title XIX the following new title:

"TITLE XX—GRANTS TO STATES FOR QUALIFIED STATE HEALTHCARE PLANS

"Sec. 2001. Appropriations.
"Sec. 2002. Qualified State Healthcare Plan definition.
"Sec. 2003. Eligibility for enrollment.
"Sec. 2004. Determination and review of premium rates.
"Sec. 2005. Procedure for enrollment.
"Sec. 2006. Individual and family contributions and State premium payments.
"Sec. 2007. Extension and termination of coverage.
"Sec. 2008. Approval of institutional rates of reimbursement by State Health Care Institutions Cost Commissions.
"Sec. 2009. Review of levels of institutional rates of reimbursement by Secretary of Health, Education, and Welfare.
"Sec. 2010. Operation of the Qualified State Healthcare Benefits Pool.
"Sec. 2011. Furnishing of information by other agencies.
"Sec. 2012. Provisions and conditions for Federal appropriations.
"Sec. 2013. Eligibility of those now covered under certain State or Federal programs.
"Sec. 2014. Premium taxes.
"Sec. 2015. Definitions.
"Sec. 2016. Protection against insolvency.
"Sec. 2017. Regulations.

"Authorization of Appropriations

"Sec. 2001. For the purpose of providing comprehensive health care insurance to needy individuals and families in a manner which will enhance personal dignity, and to make available comprehensive health care insurance coverage to individuals who are uninsurable, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out this title. The sums appropriated pursuant to this section shall be used for making payments to Qualified State Healthcare Plans which have been approved by the Secretary of Health, Education, and Welfare.

"Qualified State Healthcare Plan Definition

"General Rule

"Sec. 2002. (a) A qualified State healthcare Plan shall be a contract or other agreement between a State and an administering carrier designated by the State with the approval of the Secretary, and shall pay to practitioners, health care institutions and other providers, on behalf of the individuals and families required under section 2003 to be made eligible therefor, the Minimum Standard Healthcare Benefits (described in section 219 of the Internal Revenue Code of 1954) in accordance with the following schedule—

"(1) Priority I and II benefits for policy years (as defined in section 2015(f)) beginning before July 1, 1979, and

"(2) Priority I, II, and III benefits for policy years beginning after June 30, 1979, except as provided in subsection (b).

"Presidential Power to Defer Priority III Benefits

"(b) If the President of the United States, by Executive order issued by him pursuant to section 219(f) of the Internal Revenue Code of 1954, defers the date otherwise scheduled under section (a) for phase-in of a priority benefit such benefit shall not be required to be provided under Qualified State Healthcare Plans until such new date as shall be fixed by the President for phase-in of that priority benefit.

"Option To Elect Coverage Under an Approved Health Maintenance Organization

"(c) An individual or family eligible for enrollment in the Qualified State Healthcare Plan under section 2003 may, upon written request, submitted to the administering carrier with his enrollment application, elect coverage, if available, under an arrangement between the administering carrier and an approved health maintenance organization (as defined in section 2015(e)), in lieu of coverage under the Qualified State Healthcare Plan: Provided, however, That the charges made to the State through the administering carrier for such alternative coverage shall not exceed the charges that would have been made to the State had the individual or family not made such election and had enrolled instead in the Qualified State Healthcare Plan.

"Reinsurance Condition

"(d) The contract risk under a Qualified State Healthcare Plan shall be reinsured, through the Qualified State Healthcare Benefits Pool described in section 2010, by all carriers (profit and nonprofit) licensed in or otherwise authorized by the State to issue coverage for one or more items of health care, by all approved health maintenance organizations doing business in the State, and by all other persons in the State who provide uninsured plans that are Qualified Employee Healthcare Plans (as defined in section 280 of the Internal Revenue Code of 1954).

"Catastrophic Benefit Limit

"(e) The contract or agreement between the State and the administering carrier shall in respect of a covered individual who has incurred a catastrophe (as defined in section 219 of the Internal Revenue Code of 1954), limit to $250,000 the benefits payable under the contract or agreement between the date the catastrophe occurred and the date priority I, II and III benefits are required for all eligible individuals under Qualified State Healthcare Plans.

"Limitations and Exceptions

"(f)(1) The aggregate copayments for a policy year with respect to Minimum Stand-

ard Healthcare Benefits (described in section 219 of the Internal Revenue Code of 1954) shall be limited as follows:

"(A) In the case of an individual or family eligible pursuant to Section 2003(a), the limitation is the lesser of $1,000 or the amount by which 10 percent of the adjusted gross income of such individual or family for the last taxable year ending prior to April of the calendar year in which such policy year commenced, exceeds—

"(i) $2,000 for a single individual,

"(ii) $3,000 for a family of two, and

"(iii) $4,000 for a family of three or more;

but in no event shall the limitation be less than $50.

"(B) In the case of an individual eligible pursuant to Section 2003(b), the limitation is $1,000.

"(2)(A) No charge for a benefit otherwise described by this section, other than charges by a health care institution, shall be reimbursed to the extent that it exceeds a reasonable charge. In determining the reasonable charge for a given health care service there shall be taken into consideration the charge for the service, when rendered under comparable conditions, which is customarily made by the physician, or other person furnishing such service, but in no event shall the payment be in excess of the prevailing charge in the locality for the service. The prevailing charge in a locality shall be the amount at the seventy-fifth percentile of a low to high distribution of the actual charges made for similar services in the same locality during the preceding calendar year. The prevailing charge shall be recalculated each year by the administering carrier upon the basis of the actual charges during the preceding calendar year and such prevailing charge shall be in effect from July 1 of the current year until June 30 of the succeeding year. When a service is rendered a relatively small number of times in a locality in a given year, the prevailing charge for that service shall be determined by the administering carrier in accordance with regulations specified by the Secretary for this purpose.

"(B) No charge by a physician (as defined in Section 219 (d)(1) of the Internal Revenue Code of 1954) for a benefit otherwise described by this section shall be reimbursed to the extent that it is for health care services rendered by the physician or at his direction and determined not to be necessary according to utilization guidelines that have been established by physicians deemed competent by their peers. Payment for health care services beyond such guidelines may be made only if approved by the health professional staff of the administering carrier of the Qualified State Healthcare Plan, after review by a Professional Standards Review Organization established by the physicians of the locality, if such exists, pursuant to part B of title XI of the Social Security Act.

"(C) No charges for care rendered in any health care institution shall be reimbursed if it is determined, in accordance with and subject to the provisions of section 2008, that the health care institution is not complying with the prospective rate approval conditions established by section 2008.

"(3) No charge for a benefit otherwise described by this section shall be reimbursed to the extent it is a proper reimbursement or would be in the absence of this title under any other insurance plan providing health care benefits, including, but not limited to, benefits provided under title XVIII of the Social Security Act.

"Optional Election of Services of Christian Science Practioner.

"(g) An individual or family eligible for enrollment in a Qualified State Healthcare Plan under section 2003 may elect, in writing, at the time the individual or family makes application for enrollment, to have the term 'physician' mean 'a Christian Science practitioner listed as such in the Christian Science Journal current at the time the practitioner provides the service' in lieu of the meaning set forth in section 219(d)(1) of the Internal Revenue Code of 1954. Such election shall not apply to any service or article furnished in connection with a pregnancy or any complication thereof.

"ELIGIBILITY FOR ENROLLMENT

"Needy Individuals and Families

"SEC. 2003. (a) Every individual or family (as defined in section 2015(1))—

"(1) who is a resident of the State;

"(2) who is not eligible to enroll (through either spouse in the case of a family) in a Qualified Employee Healthcare Plan (as described by Section 280 (c) of the Internal Revenue Code of 1954);

"(3) who, if eligible to enroll in the supplementary medical insurance program for the aged described in part B of title XVIII of the Social Security Act, is, in fact, enrolled in said insurance program; and

"(4) who meets one of the three following conditions—

"(A) whose adjusted gross income for his or its last taxable year preceding April first of the calendar year in which the policy year, for which eligibility is being determined, commenced was less than—

"(i) $4,000 for a single individual,

"(ii) $6,000 for a family of two, or

"(iii) $8,000 for a family of three or more; or

"(B) who does not meet condition (A) but who furnishes the administering carrier satisfactory evidence that his or its adjusted gross income was less than—

"(i) $83.00 for a single individual,

"(ii) $125.00 for a family of two,

"(iii) $166.00 for a family of three or more, for each of the last two calendar months, who agrees that his or its continued eligibility during that policy year will be contingent upon furnishing satisfactory proof that his or its adjusted gross income for each succeeding calendar month is below the applicable amount specified above and who furnishes such proof prior to the last day of the calendar month next following the month with respect to which proof is furnished; or

"(C) does not meet either condition (A) or (B) above but is a Federal cash recipient as defined in section 2015(1)—

shall, in accordance with, and subject to the other provisions of this title, be eligible to enroll in the Qualified State Healthcare Plan.

"Uninsurable Individuals

"(b) Every individual—

"(1) who is a resident of the State;

"(2) who is not eligible to enroll (through either spouse in the case of a family) in a Qualified Employee Healthcare Plan (as described in section 280(b) of the Internal Revenue Code of 1954);

"(3) who is not eligible to enroll in the insurance program described in part B of title XVIII of the Social Security Act;

"(4) who is not eligible to enroll in a Qualified State Healthcare Plan because he fails to meet any of the conditions specified in subsection (a)(4); and

"(5)(A) who has made application, to three carriers licensed to issue individual health care insurance in the State, at least one of which is licensed to issue individual health care insurance in all the 50 States and the District of Columbia, for an individual health care insurance policy providing at least the Minimum Standard Healthcare Benefits described in section 2002(a), and each such carrier either—

"(i) refused to issue such a policy, or

"(ii) offered such a policy only for a premium rate greater than 200 per centum of the current premium rate being charged to the State for a single individual enrolled in the Qualified State Healthcare Plan, or

"(B) who became disabled while insured under a Qualified Employee Healthcare Plan, has been disabled at least 15 months, and whose coverage has continued under a temporary extension required of the Qualified Employee Healthcare Plan by section 280(b)(1)(D) of the Internal Revenue Code of 1954—

shall, in accordance with and subject to the other provisions of this title, be eligible to enroll in the Qualified State Healthcare Plan during an open enrollment period.

"Time for Determining Eligibility

"(c) For the purpose of applying the conditions of eligibility under this section, all determinations shall be made on the day application for enrollment for the policy year is made.

"DETERMINATION AND REVIEW OF PREMIUM RATES

"GENERAL RULE

"SEC. 2004. (a) The premium rate to be charged under a Qualified State Healthcare Plan for each policy year shall be actuarially established in each State for each of the risk categories—

"(1) single individual,

"(2) family of two, and

"(3) family of three or more

"Composition of Premium

"(b)(1) The premium rate for a given risk category to be charged for the initial policy year shall be determined by the administering carrier on the basis of the sum of only the following factors—

"(A) the arithmetic average of the separate estimates of incurred claim costs for that risk category for the first policy year filed with the insurance regulatory authority of the State pursuant to requests by such authority to two nondomestic insurance companies licensed to issue health care insurance in the 50 States and the District of Columbia, two domestic insurance companies licensed to issue health care insurance in the State, one domestic nonprofit hospital expense indemnity organization, and one domestic nonprofit medical expense indemnity organization;

"(B) the charge for administration as set for the policy year by the administering carrier; and

"(C) a risk charge equal to 1 per centum of the amount determined in subparagraph (A).

"(2) The premium rate for a given risk category to be charged for each subsequent policy year shall be determined by the administering carrier on the basis of the sum of only the following factors—

"(A) the incurred claim costs for that risk category for the prior policy year;

"(B) an amount equal to any projected increase or decrease in incurred claim costs for that risk category for the policy year;

"(C) an amount, if needed, to repay in full any pool losses (described in subsection 2010(c)) of prior years borne by the reinsurers of the pool and not yet recovered by them;

"(D) the charge for administration as set for the policy year by the administering carrier; and

"(E) a risk charge equal to 1 per centum of the sum of the amounts in subparagraphs (A) and (B).

"Review of the premium rates

"(c)(1) The premium rates determined for each State for each policy year pursuant to subsection (b) and the utilization and other assumptions underlying the rates are to be filed by the State with the chief actuary for the Social Security Administration, and if, within ninety days after such filing, the chief actuary determines that the rates are unjustifiably high for the State, he shall recommend to the Secretary a commensurate reduction in the Federal Healthcare Percentage described in section 2012(e). The Secretary, to the extent he concurs in and adopts such

recommendation, shall advise the State of the reduction he proposes to promulgate.

"(2) The State may request a hearing within thirty days after receipt of notice of the proposed reduction pursuant to paragraph (1). In such event, the Secretary shall, upon request by the State for a hearing and within thirty days thereof, appoint a hearing board of three actuaries, each of whom shall be a member in good standing of the American Academy of Actuaries, including one actuary who shall be appointed with the concurrence of the Governor of the State, and one actuary who shall be appointed with the concurrence of the administering carrier.

"(3) If a State does not request a hearing, of if the hearing board appointed pursuant to paragraph (2) concurs in the finding that the rates are unjustifiably high, the Secretary shall promulgate the proposed reduction in the Federal Healthcare Percentage, which shall apply throughout the period that the rates on which the hearing was based remain in effect.

"(4) If the hearing board appointed pursuant to paragraph (2) determines that the rates are not unjustifiably high for the State, the Federal Healthcare Percentage shall not be reduced.

"PROCEDURE FOR ENROLLMENT

"General Rule

"SEC. 2005. (a)(1) The appropriate State agency shall enroll each Federal cash recipient, required under section 2003 to be made eligible therefor, in the Qualified State Healthcare Plan, and shall file his application with the administering carrier on forms to be provided by the administering carrier.

"(2) All other individuals, or the member of a family who provides the family's chief support, otherwise required under section 2003 to be made eligible therefor, may enroll in a Qualified State Healthcare Plan upon filing an application with the administering carrier on a form to be provided by the administering carrier.

"Information Required of Each Applicant

"(b) Each eligible applicant described in section 2003 shall provide the administering carrier all information and evidence required to make an eligibility determination, and provide or certify any other essential information required under regulations prescribed by the Secretary, including but not limited to—

"(1) certification of his eligibility as a Federal cash recipient;

"(2) certification of his, or his family's adjusted gross income;

"(3) certification that he and his applicable family members, if eligible for the supplementary medical insurance program for the aged described in part B of title XVIII of the Social Security Act, are enrolled thereunder; or, if not then eligible, certify that he and his applicable family members who may become eligible during the policy year for the insurance program described in part B of title XVIII will enroll in such program: and

"(4) permission for the administering carrier to confirm his, or his family's, adjusted gross income with the Internal Revenue Service.

"Enrollment Periods

"(c) Applications for enrollment in a Qualified State Healthcare Plan shall only be made and filed during an open enrollment period which shall be the calendar month of April of each year for coverage commencing for the policy year beginning the following July 1, except applications for enrollment—

"(1) shall be made by the appropriate State agency on behalf of an individual or family who establishes (other than during an open enrollment period) that he is a Federal cash recipient eligible for enrollment pursuant to section 2003(a), but not then enrolled; and shall be filed with the administering carrier by the appropriate State agency within thirty days following the day on which the State receives satisfactory evidence that such individual or family has established eligibility as a Federal cash recipient; or

"(2) may be made by an individual or family who is not a Federal cash recipient and who is currently eligible for enrollment pursuant to section 2003(a) but was not so eligible at the time of the last open enrollment period and, if so made, shall be filed with the administering carrier by the individual or family within thirty days following the first day, after the last open enrollment period, on which such individual or family so became eligible.

"Effective Date of Coverage

"(d) Qualified State Healthcare Plan coverage for an individual or family eligible to enroll shall commence on the first day of the third calendar month following the calendar month in which application for enrollment was filed with the administering carrier, except that—

"(1) coverage shall not commerce unless and until—

"(A) any contribution required of the individual or family pursuant to section 2006 has been paid, and

"(B) the applicable premium has been paid by the State;

"(2) as to an individual or family eligible pursuant to subsection 2003(a)(4)(B), coverage shall commence on the first day of the calendar month following the two calendar months whose wages are used as the basis of such eligibility provided application for enrollment is filed and contributions and premiums paid within thirty days of such date; and

"(3) as to an individual or family who is a Federal cash recipient, coverage shall be retroactive to the first of the month in which the individual or family became eligible as a Federal cash recipient, and the State shall pay the appropriate premiums for the period of retroactive coverage, as well as the premium for the next month, at the time application for enrollment is submitted to the administering carrier.

"INDIVIDUAL AND FAMILY CONTRIBUTIONS AND STATE PREMIUM PAYMENTS

"Individual and Family Contributions

"SEC. 2006. (a) Individuals and families enrolled in a Qualified State Healthcare Plan shall be required to contribute toward the cost of the plan for any given policy year, by paying to the administering carrier, for each month for which coverage is provided, an amount limited as follows—

(1) In the case of an individual or family whose eligibility is based on having met the conditions set forth in section 2003(a)(4)(A), the contribution for each month is one-twelfth of 10 per centum of the excess of the adjusted gross income of such individual or family for the taxable year on which eligibility is based over—

(A) $2,000 for a single individual,

(B) $3,000 for a family of two, and

(C) $4,000 for a family of three or more—

provided, however, that the amount so determined shall be reduced (but not below zero) by the total premium, if any, paid for such month by the individual or family to the Social Security Administration for enrollment in the supplementary, medical insurance program for the aged described in part B of title XVIII of the Social Security Act.

(2) In the case of an individual or family whose eligibility is based on having met the conditions set forth in section 2003(a)(4)(B) the contribution for each month is—

(A) $16.67 for a single individual

(B) $25.00 for a family of two, and

(C) $33.33 for a family of three or more.

(3) In the case of an individual described in section 2003(b) the contribution is the amount equal to the full premium determined under section 2004 to be applicable for the risk category of a single individual.

(4) No contribution shall be required of an individual or family whose eligibility is based on having met the conditions set forth in section 2003(a)(4)(C).

"State payment of contributions on behalf of certain individuals and families

"(b) As to any month of a policy year that an individual or family has established that he or its is a Federal cash recipient, any contribution required for that month pursuant to subsection (a) shall be paid by the State on behalf of that individual or family.

"State's Share of the Premium

"(c) Each State which has a Qualified State Healthcare Plan shall pay the administering carrier an amount equal to—

"(1) the total premium cost for the policy year, less

"(2) the total amount of contributions actually paid to the administering carrier by the individuals and families as provided for in this section, plus

"(3) the total amount refunded pursuant to subsection (e)(5).

"Nonvariability of Contributions and Premiums

"(d) The amount of contribution and the amount of premium shall be established by family size category on the day application for enrollment was made, and shall not change as a result of a change in family size thereafter.

"Due Date of Contributions and State Premium Payments

"(e)(1) Except as otherwise provided in this subsection (e), any contribution required of an individual or family, or of the State on behalf of a Federal cash recipient, for a given month of a policy year shall be due and payable—

"(A) in advance of the first day of that month, or

"(B) in the case of the initial contribution by an individual or family whose coverage may commence retroactively to the first of the month pursuant to the exception permitted by subsection 2005(d)(2), on the date application for enrollment is made.

"(2) As to any individual or family whose monthly contribution would, in the absence of this paragraph, be less than the administering carrier's cost of billing and collecting such contributions, the administering carrier shall require contributions to be paid quarterly, semi-annually or annually in advance, whichever is necessary in order to first bring such cost below the amount of the less frequent contribution.

"(3) Any individual or family member who is required to make contributions for his coverage other than in accordance with (2) above and who is an employee (as defined in section 3121(d) of the Internal Revenue Code of 1954) may require his employer to make periodic deductions from his wages, and remit each contribution to the administering carrier on or before the due date specified in subsection (1).

"(4)(A) At least 15 days prior to the first day of a given calendar month, the administering carrier shall estimate the excess of the total premiums due that month over the total contributions that will be paid by enrolled individuals and families that month and shall bill the State for such estimated excess. If payment by the State of any such billing is not received by the first day of the month it is due, the administering carrier shall not be liable for benefit payments thereafter.

"(B) After the end of any given policy year, the carrier shall determine the amount required to be paid by the State in accordance with subsection (c) and shall

(I) charge the State with any excess of the amount so determined over the total of the estimated monthly payments made by the State with respect to that policy year; or

(II) credit the State with any excess of the total of the estimated monthly payments made by the State with respect to that policy year over the amount so determined.

Any such charge shall be paid by the State within 30 days of receipt of written notice from the administering carrier.

"(5) If at the end of any given policy year an individual or family covered for all or part of that policy year furnishes the administering carrier satisfactory evidence that his or its adjusted gross income for his or its last taxable year preceding April first of the calendar year in which that policy year ended was less than—

"(A) $2,000 for a single individual

"(B) $3,000 for a family of two or

"(C) $4,000 for a family of three or more, then the administering carrier shall refund to that individual or family the total amount of contributions he or it paid with respect to that policy year, and such refund shall be a valid charge to the State by the administering carrier.

"State Payment of Premiums for Part B Medicare Benefits

"(f) Each State which has a Qualified State Healthcare Plan shall make available, and pay premiums for, supplementary medical insurance benefits under part B of title XVIII of the Social Security Act to any individual or family member who is enrolled in that State's Qualified State Healthcare Plan, who is eligible for such supplementary medical insurance benefits and who either:

"(1) has established eligibility as a Federal cash recipient at the time his application for enrollment in the Qualified State Healthcare Plan is made; or

"(2) had adjusted gross income for the taxable year on which eligibility is based less than—

"(A) $2,000 for a single individual,

"(B) $3,000 for a family of two, or

"(C) $4,000 for a family of three or more.

Such benefits shall be made available pursuant to an agreement entered into under section 1843 of the Social Security Act, or by reason of the payment of premiums under such title by the appropriate State agency on behalf of the individuals.

"EXTENSION AND TERMINATION OF COVERAGE

"General Rule

"SEC. 2007. (a) Except as provided in subsection (d), subject to timely payment as specified in section 2006(e) of any contribution required under section 2006 by the individual or family and subject to timely payment of the State's share of the premium as specified in section 2006(e), Qualified State Healthcare Plan coverage shall remain in force—

"(1) with regard to an individual or family made eligible under section 2003(a)(4)(A), for the balance of the policy year;

"(2) with regard to an individual or family made eligible under section 2003(a)(4)(B), until the end of the calendar month following the first calendar month with respect to which the individual or family fails to furnish satisfactory evidence that his or its adjusted gross income was below the applicable amount specified in section 2003(a)(4)(B) or the end of the policy year if earlier; and

"(3) with regard to an individual or family made eligible under section 2003(a)(4)(C), until the end of the third calendar month following the calendar month in which eligibility for public cash assistance ceased or the end of the policy year if earlier.

"Extended Coverage

"(b) Qualified State Healthcare Plan coverage shall immediately extend to any child born to, or adopted by, any eligible family member subsequent to the day the application for enrollment was made, and shall continue in force until the date the family's coverage would otherwise terminate in accordance with this section.

"Continued Coverage

"(c) Qualified State Healthcare Plan coverage during the policy year shall not be terminated because an individual who was an eligible family member on the day the application for enrollment was made ceases to be an eligible family member subsequent to the date of application.

"Termination of Coverage

"(d)(1) Qualified State Healthcare Plan coverage shall terminate as of the first day of any calendar month if any contribution due with respect to that month has not been paid by the applicable due date specified in section 2006(e).

"(2) If Qualified State Healthcare Plan coverage is terminated in accordance with paragraph (1) and a request for reinstatement is made within 30 days following the day coverage terminated, the individual or family will be extended continuous coverage upon payment of the overdue contribution and all remaining contributions due during the balance of that portion of the policy year that coverage would have remained in force pursuant to subsection (a) had timely payments been made plus a service charge of $10.

"(3) If Qualified State Healthcare Plan coverage is terminated in accordance with paragraph (1) and the individual or family fails to request reinstatement as provided for in paragraph (2), the individual, or family shall not be eligible for any coverage under the Qualified State Healthcare Plan for the balance of the policy year concerned, and if such individual or family is eligible and desires to enroll for the next policy year, he or it must first pay pay a service charge of $10.

"APPROVAL OF INSTITUTIONAL RATES OF REIMBURSEMENT BY STATE HEALTH CARE INSTITUTIONS COST COMMISSIONS

"State Commission

"SEC. 2008. (a) In the operation of a Qualified State Healthcare Plan no charge for services rendered or supplies furnished by hospitals, skilled nursing facilities or Home Health Agencies (herein collectively referred to as "health care institutions") shall be reimbursed to the extent that such charges exceed the rates approved by a State Health Care Institutions Cost Commission. Such Commission shall be a State agency designated by the Governor of each State for the purpose of performing the functions described in this section. Such Commission shall operate with the advice of a council appointed by the Governor. The council shall include at least two consumer representatives, one hospital representative, one skilled nursing facility representative, one Home Health Agency representative, one hospital service organization representative, one insurance company representative, and one representative of the State health planning council established pursuant to section 314(a)(2)(B) of the Public Health Service Act. One of the representatives shall be designated as chairman of the advisory council.

"Reviews of Budgets and Charges

"(b) The Commission shall review budgets and proposed charges for the health care institutions in the State in order to establish prospectively approved charges which shall be applicable without discrimination to all purchasers of services and supplies from health care institutions, irrespective of whether the purchasers are insured pursuant to any provision of this title and irrespective of type of underwriter which may provide insurance to a purchaser. Once each year, each health care institution shall file its budget and proposed charges with the Commission. The Commission may approve the use of a single charge for all of a group of services commonly rendered a class of patients or a single all-inclusive daily charge for all in-patient services of the health care institution. Filed charges shall be deemed approved unless disapproved by the Commission within 60 days after filing.

"Standards for Health Care Institutions

"(c) In reviewing the proposed charges of health care institutions in the State, the Commission shall require at least the following standards of each such institution—

"(1)(A) an active review committee of qualified physicians and other personnel that effectively determines whether the services rendered are—

"(i) of good quality,

"(ii) needed for the proper treatment of the patient, and

"(iii) provided only as long as necessary within the health care institution; and

"(B) management that takes effective and prompt action with respect to adverse findings;

"(2) utilization of a standard system of accounting and cost finding established by the Commission;

"(3) utilization of the approved charges for all patients; and

"(4) a budget of its expenses for each fiscal year, using the approved standard system of accounting and cost finding, and established charges for services reasonably related to the cost of efficient production of such services.

The Commission shall also take into consideration economic factors in the health care institution's geographical area, costs of comparable institutions providing comparable services, capital requirements, and the need for incentives to improve service and institute economies which might be secured from the sharing of joint services with other health care institutions.

"Amortization of Capital Costs

"(d) In reviewing that portion of a health care institution's charges which results from financing costs and depreciation relating to prior capital expenditures, the Commission shall accept the determination, if any, of the appropriate comprehensive health planning agency (as defined in section 2 of the Public Health Service Act) that the construction of such facility was consistent with the health needs of the area.

"Appeal by Health Care Institution Following Disapproval by Commission

"(e) If the budget submitted by a health care institution reveals significant operating inefficiencies or if the proposed charges otherwise appear to be unjustifiably high, the Commission shall disapprove the proposed charges. If the proposed charges are disapproved, the affected health care institution may request consideration of the advisory council constituted by virtue of subsection (a). Upon receipt of such request, the council shall hold a hearing at which the interested parties may appear to present the facts which support the Commission's decision and the facts which support the affected health care institution's position. Following such hearing the council shall advise the Commission of its recommendation, and the Commission shall thereupon render a final decision.

"Federal Payment for Cost Commission's Expenses

"(f) The Secretary shall pay to any State which has a Qualified State Healthcare Plan an amount equal to 75 per centum of the reasonable amounts expended by the State each quarter as found necessary by the Secretary for the proper and efficient administration of the State's Health Care Institutions Cost Commission and its advisory council except that there shall be no reimbursement by the Secretary for the cost of any institutional audits that may be conducted by the Commission.

"REVIEW OF LEVELS OF INSTITUTIONAL RATES OF REIMBURSEMENT BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Filing With the Secretary

"SEC. 2009. (a) Annually on a date specified by the Secretary, each State Health Care Institutions Cost Commission shall file with the Secretary, on a form prescribed by him, a report of the level of rates of institutional reimbursement approved by the Commission for such categories of health care institutions as shall be established by the Secretary. The categories shall take into consideration the type and size of the institutions and differing economic characteristics by geographic areas within each State so that each category will include institutions with similar conditions of operating cost.

"Review by the Secretary

"(b) In the event the Secretary determines that the level of rates approved for a given category of health care institution in a State is unjustifiably high in relation to those of other States, he shall order a reduction for that State in the Federal Medical Assistance Percentage (as defined in section 1905(b) of Title XIX of the Social Security Act), and a reduction in the Federal Healthcare Percentage (as defined in section 2012(d)) to compensate for the excess cost resulting from the unjustifiably high level of rates for that category of health care institutions in the State. The State may appeal the Secretary's decision, and upon receipt of an appeal, the Secretary shall appoint a hearing board of three members which shall hold a hearing at which the interested parties may appear to present the facts which support the Secretary's decision and the facts which support the appellant State's position. The members of the hearing board shall each be knowledgeable with respect to the costs of operating health care institutions of the category concerned and may not be an employee or an owner of any of the health care institutions concerned. Following such hearing the hearing board shall advise the Secretary of its recommendation, and the Secretary shall thereupon render a final decision. There shall be no further right of appeal or review by the State. If the State, whose Federal percentages have been reduced, takes action to correct the situation which produced the unjustifiably high level of rates for the category of health care institutions, it may so notify the Secretary and request restoration of the full amount of the Federal Medical Assistance Percentage and the full amount of the Federal Healthcare Percentage. If the Secretary is satisfied that corrective action has been taken, he shall restore the Federal percentages to their full amount for that State as of the date he deems the corrective action to have eliminated the unjustifiably high level of rates.

"OPERATION OF THE QUALIFIED STATE HEALTHCARE BENEFITS POOL

"General Rule

"SEC. 2010. (a) The Qualified State Healthcare Benefits Pool (hereinafter in this section referred to as the Pool) shall be administered by the administering carrier.

"Fiscal Operation

"(b)(1) The premiums collected pursuant to this title, the service charges described in section 2007(d) and the reimbursements for Pool losses described in subsection (c)(2) shall be paid into the Pool.

The Pool shall be available—

"(A) without fiscal year limitation to pay all Qualified State Healthcare Plan benefit claims certified by the administering carrier;

"(B) without fiscal year limitation to pay premiums to approved health maintenance organizations (as defined in section 2015(e));

"(C) to pay the risk charges specified in section 2004(b);

"(D) to repay to Pool reinsurers the losses, if any, specified in section 2004 (b)(2)(C);

"(E) to pay the administrative charge of the administering carrier described in section 2004(b); and

"(F) to pay any other charges for which the Pool has a liability.

"(2) The moneys in the Pool shall be invested and reinvested in interest-bearing obligations, which may be sold for the purpose of the Pool. The interest on, and the proceeds from the sale of, such obligations become a part of the Pool.

"Experience Accounting

"(c)(1) At the close of each policy year, an experience accounting for the Pool for the policy year shall be prepared by the administering carrier and submitted to the Secretary, to the State, and to all reinsurers specified in section 2002(d).

"(2)(A) All reinsurers shall participate in any Pool losses in accordance with a formula, designed by the administering carrier and approved by the Insurance Commissioners, that equitably allocates Pool losses to carriers and approved health maintenance organizations in proportion to their total health care business and to uninsured plan in proportion to their benefit payments under Qualified Employee Healthcare Plans. The aggregate Pool losses for any policy year to be apportioned among the Pool participants shall be limited to 3 per centum of the Qualified State Healthcare Plan premiums collected by the Pool for the year. Losses in excess of this limitation shall be borne by the State.

"(B) The State shall collect the uninsured plans' share of the Pool losses, and remit such amount together with the State's payment for its share of the losses to the administering carrier within forty-five days after the experience accounting has been submitted. The other reinsurers shall remit their share of the loss to the administering carrier within thirty-one days after the experience accounting has been submitted.

"(3) If the experience accounting reflects a gain (computed after deduction of the reinsurers' risk charge described in section 2004(b)) for the policy year, the gain shall be retained in the pool and used to minimize future premiums to be paid by the State.

"FURNISHING OF INFORMATION BY OTHER AGENCIES

"General Rule

"SEC. 2011. (a) The head of any Federal or State agency shall furnish such information as the administering carrier needs for purposes of spot auditing eligibility for the Qualified State Healthcare Plan, or verifying other information with respect thereto.

"Carrier's Liability

"(b) A reliance by the administering carrier on information furnished by any Federal or State agency shall relieve the carrier from liability for failure to charge sufficient premiums, overpayment of benefits, or any other erroneous act resulting from the carrier's reliance on such information.

"PAYMENTS TO STATES

"Premiums

"SEC. 2012. (a) From the sums appropriated therefor, the Secretary shall pay to each State which has a Qualified State Healthcare Plan an amount equal to the product obtained by multiplying the total premiums for the Qualified State Healthcare Plan paid by a State to the administering carrier by the Federal Healthcare Percentage defined in subsection (e). In applying the preceding sentence, the amount used as total premiums paid by a State for a Qualified State Healthcare Plan shall not include any portion thereof that is determined by the Secretary to be attributable to benefits provided under the Plan which are in excess of the Minimum Standard Healthcare Benefits then required by section 2002(a) to be provided.

"Pool Losses

"(b) From the sums appropriated therefor, the Secretary shall pay to each State which has a Qualified State Healthcare Plan an amount equal to the product obtained by multiplying the excess Pool losses paid by the State to the administering carrier (as provided by section 2010(c)(2)(A)) by the Federal Healthcare Percentage defined in subsection (d). For the purpose of this subsection, the Federal Healthcare Percentage shall be as determined before any reduction thereof provided for under section 2004(c)(3), or section 2009.

"Condition for Payment and Compliance

"(c) The amounts authorized to be paid a State under this title shall not be paid by the Secretary unless the State annually certifies to the Secretary, on a date or dates set by the Secretary, that—

"(1) it has established a Qualified State Healthcare Plan the administering carrier of which has been approved by the Secretary;

"(2) it has authorized the Insurance Commissioner of that State (as defined in section 2015(a)) to review the premium rates of the Qualified State Healthcare Plan pursuant to section 2004(c)(1);

"(3) it has authorized a state agency to enroll Federal cash recipients in the Qualified State Healthcare Plan pursuant to section 2005(c)(1);

"(4) it has authorized the State Treasurer or other appropriate official to make the payments required of the States under sections 2006, 2008, and 2010;

"(5) it has authorized a State agency to perform the functions of the State Health Care Institution Cost Commission described in section 2008;

"(6) the Insurance Commissioner of that State is carrying out the duties with regard to protection against insolvency as prescribed by section 2016; and

"(7) it is carrying out the remaining administrative and other duties specified in title XX.

Such certification shall, after 60 days of receipts by the Secretary, be deemed acceptable unless prior thereto the Secretary notifies the State, in writing, that the certification has not been accepted.

"Federal Healthcare Percentage

"(d) The term 'Federal Healthcare Percentage' for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska and Hawaii); except that (1) the Federal Healthcare Percentage shall in no case be less than 70 per centum or more than 90 per centum, and (2) the Federal Healthcare Percentage for Puerto Rico, the Virgin Islands, and Guam shall be 70 per centum. The Secretary shall promulgate the Federal Healthcare Percentage for each State as soon as possible after enactment of this title, which promulgation shall be conclusive for each of the four quarters in the period beginning July 1, 1974, and ending with the close of June 30, 1975. Thereafter, the Federal Healthcare Percentage for any State shall be promulgated in accordance with the provisions of section 1101(a)(8)(B) of title XI of the Social Security Act.

"ELIGIBILITY OF THOSE NOW COVERED UNDER CERTAIN STATE OR FEDERAL PROGRAMS

"Federal Programs

"SEC. 2013. (a) Any class of individuals or families, other than employees of the Federal

Government and their families, whose members at the time of enactment of this Act, are receiving all, or substantially all, of their medical care under a Federal program, other than a program pursuant to the Social Security Act, shall not be eligible for coverage under a Qualified State Healthcare Plan unless—

"(1) all members of the class who are resident in the State are enrolled in the Plan;

"(2) the Federal Government pays the premium for supplementary medical insurance benefits under part B of title XVIII of the Social Security Act for all such members of the class as are eligible therefor;

"(3) the Federal Government arranges for the enrollment of such individuals and families in the Qualified State Healthcare Plan and pays the full premium therefor on behalf of such persons without requiring any sharing by the State; and

"(4) the Federal Government agrees to pay the State that proportion of any excess Pool losses, charged to the State pursuant to section 2010(c)(2)(A), which the average number of such persons enrolled in such Plan during the policy year bears to the average number of all persons enrolled in such Plan during that year. In applying section 2012(b), the amount of such payment shall reduce the excess Pool losses to which the Federal Healthcare Percentage would otherwise be applied.

"State Programs

"(b) Any class of individuals or families, other than employees of a State or local government and their families, whose members, at the time of enactment of this Act, are receiving all, or substantially all, of their medical care under a State program of medical care, other than a program pursuant to the Social Security Act, and who are not otherwise eligible for enrollment in the Qualified State Healthcare Plan, shall be eligible for coverage in a Qualified State Healthcare Plan provided—

"(1) all members of the class who are resident in the State are enrolled in the Plan;

"(2) the State pays the premium for supplementary medical insurance under part B of title XVIII of the Social Security Act for all such members of the class as are eligible therefor;

"(3) the State arranges for the enrollment of such individuals and families in the Qualified State Healthcare Plan and pays the full premium therefor on behalf of all such persons; and

"(4) the State agrees to absorb, without any sharing by the Federal Government, that proportion of the excess Pool losses, charged to it pursuant to section 2010(c)(2)(A), which the average number of such persons enrolled in such plan during the policy year bears to the average number of all persons enrolled in such Plan during that year. In applying section 2012 (b), such amount shall reduce the excess Pool losses to which the Federal Healthcare Percentage would otherwise be applied.

"PREMIUM TAXES

"SEC. 2014. In order to be eligible for Federal appropriations pursuant to this title, a State (or any political subdivision thereof)—

"(1) may not impose any tax of any kind on or with respect to any premium, benefit, income, or other transaction or occurrence connected with any Qualified State Healthcare Plan or Benefits Pool provided for under this title, and

"(2) may not impose any tax or fee on any domestic carrier which provides health care insurance in the State with respect to any premium or other income received or any benefit provided, or on any other transaction or occurrence, in connection with any health care insurance contract, unless any such tax or fee is applied equally to all domestic carriers which provide health care insurance in the State.

"DEFINITIONS

"SEC. 2015. As used in this title the following terms shall have the following meanings:

"Insurance Commissioner

"(a) 'Insurance Commissioner' means the public official charged with the regulation of insurance in each State.

"Secretary

"(b) 'Secretary' means the Secretary of Health, Education, and Welfare.

"States

"(c) 'State' shall include each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

"Administering carrier

"(d) 'Administering carrier' means either—

"(1) a carrier licensed to issue health care insurance in each of the 50 States and the District of Columbia,

"(2) a carrier licensed to issue health care insurance in at least one of the 50 States or the District of Columbia which has one or more affiliates or wholly owned subsidiaries licensed to issue health care insurance, if in each of the 50 States and the District of Columbia the carrier or at least one of its affiliates or wholly owned subsidiaries is licensed to issue health care insurance, or

"(3) a domestic carrier, or an assemblage of domestic carriers operating as one administering unit, which the Insurance Commissioner of the State finds will perform its obligations as administering carrier efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

"Approved health maintenance organization

"(e) 'Approved health maintenance organization' means a public or private organization (profit or non-profit) which—

"(1) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on the basis of a predetermined periodic rate without regard to the frequency or extent of services furnished to any particular enrollee;

"(2) offers, in accordance with the priority schedule applicable, either directly or through arrangements with others, all of the services and articles described in the Minimum Standard Healthcare Benefits specified in section 219 of the Internal Revenue Code of 1954;

"(3) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"(4) demonstrates to the satisfaction of the Insurance Commissioner of its State of domicile and any other agency specified by State statute proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services, efficiently, effectively, and economically; and

"(5) assures that the health services required by its members are received promptly and appropriately and that the services that are received measure up to quality standards which are established pursuant to applicable regulations.

"Policy Year

"(f) 'Policy year' means a period beginning any July 1 and ending the close of the following June 30.

"Carrier

"(g) 'Carrier' means an insurance company, hospital service or hospital expense indemnity organization, a medical service or medical expense indemnity organization, dental service or dental expense indemnity organization, fraternal benefit society or other similar organization or society which provides coverage for one or more types of health care.

"Uninsured Plan

"(h) 'Uninsured plan' means a plan provided by a person (other than a carrier or an approved health maintenance organization) having an arrangement which has been communicated or described in writing to covered individuals, and which covers at least 26 individuals for at least 26 weeks of the calendar year, and which provides, pays for, or reimburses the whole or any part of the cost of the health care of such individuals, but shall not include the Federal Government with respect to programs established by it.

"Federal Cash Recipient

"(i) 'Federal cash recipient' means an individual or family who has established eligibility for public cash assistance under a program financed in whole or in part by Federal funds.

"Adjusted Gross Income

"(j) 'Adjusted gross income' shall have the meaning set forth by section 62 of the Internal Revenue Code of 1954.

"State of Domicile

"(k) 'State of domicile' means the State in which an underwriter, other than an insurance company, maintains its principal place of business. For an insurance company which is an underwriter, 'State of domicile' means the State in which it is incorporated.

"Family

"(l) 'Family' means an individual and his spouse if not legally separated under a decree of divorce or of separate maintenance and each of their dependent (as defined in the introductory clause of section 152(a) of the Internal Revenue Code of 1954) unmarried children who have not attained the age of nineteen.

"Underwriter

"(m) 'Underwriter' means a carrier, an approved health maintenance or organization, or the person who provides an uninsured plan.

"PROTECTION AGAINST INSOLVENCY

"Definitions

"SEC. 2016. (a) As used in this section, the following terms have the following meanings:

"(1) 'NHI' means pertaining to one or more qualified health care plans (as defined in section 219(e)(8) of the Internal Revenue Code of 1954.)

"(2) 'Premium' means the premium, enrollment fee, or such other comparable fee or periodic charge of an underwriter for NHI coverage.

"Capital and Surplus Requirements

"(b) An NHI underwriter shall have a combined capital and surplus of not less than one million five hundred thousand dollars. In lieu of holding such capital and surplus, an underwriter may, subject to the approval of the Insurance Commissioner of the State of domicile, either secure a performance bond issued by a company licensed to issue such bonds in the underwriter's State of domicile in an amount of one million five hundred thousand dollars; or, secure a written contract, from one or more carriers authorized to write NHI contracts in such State and having at least fifteen million dollars of unassigned surplus, which provides that the contracting party will, in the event that and as of the date that, such

underwriter ceases to be authorized to provide NHI coverage, provide without qualification NHI coverage for all individuals or families so affected.

"Reserve Requirements

"(c) Each NHI underwriter shall:

"(1) Maintain NHI reserves in an amount not less on any day than:

"(A) the total amount of its liability for unearned premiums, future contingent benefits, and amounts not yet due on claims,

"(B) the total amount of its liability for due and unpaid claims in course of settlement, and incurred but unreported claims, and

"(C) 12½ per centum of the total amount of its NHI claims paid during the preceding calendar year but not more than $25 million, which amount shall be called the NHI Contingency Reserve (hereinafter "NHICR") and may be maintained either directly or as a portion of the underwriter's surplus; provided, however, that such 12½ per centum requirement shall be applied to the total amount of an approved health maintenance oragnization's premium during the preceding calendar year. (The underwriter may, subject to the approval of the Insurance Commissioner of its State of domicile, credit against its NHICR the value of those of its contracts with providers of health services as guarantee the delivery of the contracted services even in the event of insolvency of the underwriter.

"(2) Maintain NHI reserves, including the NHICR, in assets qualified as legal investments for insurance companies of the same size by the laws of the State of domicile.

"(3) Submit an affidavit, executed by its chief executive officer or by a member of the American Academy of Actuaries or another actuary approved by the Insurance Commissioner of the State of domicile, to such Insurance Commissioner within 90 days after the end of each calendar year that its NHI reserves comply with the requirements of this section. Such affidavit shall be accompanied by a financial report for the prior calendar year on a form prescribed by the Insurance Commisioner describing its NHI business including but not limited to:

"(A) information substantiating the adequacy of its NHI reserves;

"(B) disclosure of the manner in which its NHICR was computed;

"(C) balance sheet; and

"(D) income statement.

"(4) Submit an affidavit to the Insurance Commissioner of each State in which the underwriter does NHI business within 90 days after the end of each calendar year showing the amount of NHI premiums paid for lives in that State during such calendar year. For an uninsured plan, such NHI premiums shall be the greater of:

"(A) the deduction for a taxable year under section 162, 212 or 404 of the Internal Revenue Code of 1954 claimed by a person having such arrangement with respect to benefits provided under NHI coverage plus the amount of any contributions collected from its members for NHI coverage with respect to the year concerned, or

"(B) 104 per centum of NHI claims paid by the uninsured plan during the calendar year.

"State Supervision

"(d) An underwriter not otherwise subject to the supervision of its business by the Insurance Commissioner of its state of domicile shall, as a condition to providing NHI coverage, file with that Insurance Commissioner a notarized affidavit agreeing to subject its NHI business to his supervision and to pay any assessments duly levied pursuant to this subtitle D.

"Procedure To Prevent Impairment

"(e)(1) Any NHI underwriter whose NHICR fails to meet the requirements of this section shall be impaired for purposes of this title and promptly shall:

"(A) cease issuance of any new group or individual NHI policies; provided, however, such NHI underwriter may continue to issue coverage under an existing group plan; and

"(B) provide the Insurance Commissioner of the underwriter's State of domicile with:

"(i) an appraisal by a member of the American Academy of Actuaries or an actuary approved by the Insurance Commissioner of the capacity of the underwriter to pay claims on its outstanding NHI coverage; and

"(ii) either a plan for reinsurance of its NHI obligations with an NHI carrier, or a plan for reconstituting its NHICR.

"(C) advise the obligor under the performance bond, if such bond was purchased pursuant to subsection (b), of the NHI underwriter's possible financial inability to meet its obligations under this Act.

"(2) An Insurance Commissioner, upon receipt of such information, shall:

"(A) determine whether the proposed reinsurance carrier has NHI reserves adequate to comply with this section after accepting the proposed reinsurance and, if he approves the proposed plan for reinsurance, notify the impaired underwriter to execute such plan within 60 days. If the plan for reinsurance is not approved, the Insurance Commissioner shall notify the impaired underwriter that the plan for reinsurance has not been approved and that a plan for reconstituting its NHICR must be submitted within 30 days; and

"(B) if an impaired underwriter submits a plan for reconstituting its NHICR, appoint a committee to supervise the reconstitution of the NHICR. The committee shall be chaired by the Insurance Commissioner of the impaired underwriter's State of domicile. a representative of the Insurance Commissioner of one of the States in each National Association of Insurance Commissioners' Zone in which the impaired underwriter issued NHI coverage and at least one officer from five NHI carriers other than the impaired underwriter.

"(3) The committee's responsibilities shall include:

"(A) approval or disapproval of the impaired underwriter's plan for reconstituting its NHICR;

"(B) if such plan is approved, the committee shall provide the Insurance Commissioner with periodic reports concerning the execution of such plan and the need for any additional protection for NHI policyholders, members or participants of the impaired underwriter; and

"(C) if the plan for reconstituting the impaired underwriter's NHICR is disapproved, the committee shall determine whether an assessment is necessary to meet the impaired underwriter's NHI obligations.

"(4) If the committee determines that an assessment is necessary, it shall be made according to the following formula where NHI premiums are net after reinsurance:

"(A) the total assessment shall be allocated among the States in which the impaired underwriter issued NHI coverage in proportion to the ratio of the impaired underwriter's NHI premiums paid in the State to the total of its NHI paid premium in all States for the last completed calendar year; and

"(B) a State's share of the assessment, as determined in subsection (A), shall be allocated among NHI underwriters in that State in proportion to the ratio of each underwriter's NHI premiums paid in that State for the last completed calendar year to the total NHI premiums paid in that State for that year by all NHI underwriters other than the impaired underwriter; provided that if the impaired underwriter is an insurance company, then the portion of a State's assessment that would be so charged to Blue Cross Plans and Blue Shield Plans shall instead be assessed on the remaining insurance companies which are NHI underwriters in proportion to their shares of that State's assessment, and if the impaired underwriter is a Blue Cross Plan or a Blue Shield Plan, then the portion of a State's assessment that would be so charged to insurance companies shall instead be assessed on the remaining Blue Cross Plans and Blue Shield Plans which are NHI underwriters in proportion to their shares of such assessment.

"(5) The Insurance Commissioner of each State in which the impaired underwriter did NHI business shall furnish NHI underwriters in the State with:

"(A) a copy of the committee's report;

"(B) the total amount of the assessment upon all NHI underwriters;

"(C) the underwriter's share of the assessment produced under the formula; and

"(D) a demand that payment of the assessment be made within three months, or such longer period of time as the Insurance Commissioner may authorize if such payment would, in the opinion of the committee, endanger the ability of the assessed underwriter to fulfill its contractual obligations.

"(6) Failure to make timely payment of the assessment shall be cause for withdrawal of the underwriter's privilege to conduct NHI business.

"(7) Any assessment made upon and paid by an NHI underwriter under this section, shall be deductible from any other assessment made under a state insolvency law or other requirement which relates to the NHI underwriter which was deemed impaired pursuant to this section.

"REGULATIONS

"SEC. 2017. Any regulations promulgated by the Secretary (or his delegate) with regard to this title shall be promulgated in final form not less than nine months prior to the first day of the policy year during which they will apply. Such regulations shall be effective only if (i) promulgated in final form within the time prescribed in the preceding sentence, and (ii) notice of such regulation in proposed form and of opportunity for public hearing thereon shall have been published not less than sixty days prior to the date of promulgation thereof in final form."

SEC. 532. CARRIER COMPLIANCE

Nothing contained in antitrust legislation enacted by the Congress of the United States or by the Legislatures of one or more of the several States shall be construed as limiting or in any other way applying to carriers in any activity undertaken in compliance with or in an effort to comply with any provision of this Act.

SEC. 533. CONFORMING AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT

Title XVIII of the Social Security Act is amended—

(1) by adding after section 1837(g) the following new subsection:

"(h) Notwithstanding the provisions or limitations of subsections (a), (b), (c), (d), (e) and (f), there shall be a general enrollment period during the month of April in each year for individuals who are enrolling for the first time in a Qualified State Healthcare Plan described in title XX of the Social Security Act."; and

(2) by adding after section 1843(h) the following new subsection:

"(i) The Secretary shall, at the request of a State, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the covered group described in subsection (b) and specified in such agreement is broadened to include individuals who are described in section 2006(f) of title XX of the Social Security Act."

SEC. 534. CONFORMING AMENDMENTS TO TITLE XIX OF THE SOCIAL SECURITY ACT

Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"EXCLUSION FROM COVERAGE

"SEC. 1908. Notwithstanding any other provision of this title, no payment under this title may be made (a) for any expenses incurred for services or articles (1) which are covered under a Qualified State Healthcare Plan (as defined in title XX), (2) which are incurred after July 1, 1975, and would have been covered under a Qualified State Healthcare Plan had the State adopted such a plan, or (b) for any copayment required under a Qualified State Healthcare Plan."

SEC. 535. CONFORMING AMENDMENTS REGARDING "REASONABLE COSTS"

Wherever reference is made to titles V, XVIII, and XIX of the Social Security Act to making payments to a provider on the basis of "reasonable costs" or "reasonable charges", with regard to any amount paid after June 30, 1974, that payment shall not be considered reasonable to the extent that it exceeds the amount which would be determined to be reasonable and necessary under section 2002(f)(2) of title XX of the Social Security Act.

SEC. 536. CONFORMING AMENDMENTS TO THE INTERNAL REVENUE CODE

"(a) Section 115(a) of the Internal Revenue Code of 1954 is amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or" and by adding after paragraph (2) the following new paragraph:

"(3) interest, or any other item of income, derived from any investment by a Qualified State Healthcare Benefits Pool (as defined in section 2010 of title XX of the Social Security Act)."

"(b) Section 501(c)(8) of the Internal Revenue Code of 1954 is amended by the addition of the following item:

"(C) For purposes of this section, payments made directly or indirectly to a Qualified State Healthcare Benefits pool by a fraternal beneficiary society, order or association under provisions of the National Healthcare Act shall not in any way disqualify such group from its tax exempt status under this section.

SEC. 537. EFFECTIVE DATE

The amendments made by this subtitle shall become effective on the date of enactment of this Act, except that a Qualified State Healthcare Plan provided for under new title XX of the Social Security Act shall not provide benefits before July 1, 1974.

NATIONAL HEALTHCARE ACT—SECTION-BY-SECTION ANALYSIS

TITLE I—FINDS AND DECLARATION OF PURPOSE

Section 101: This section states that: (a) America confronts a critical testing of its capacity to meet for all of its citizens one of the most basic of human needs, that of protecting and maintaining personal health; (b) every citizen of the United States of America should have access to quality health care, but too many Americans find it difficult to secure quality health care when they need it, where they need it, at prices they can afford; (c) the nation needs systems of health care organization, delivery, and financing which combine the high scientific and technical competence of the medical and allied health professions; the flexibility, innovativeness, efficiency, and managerial skills of private enterprise; the legislative and fiscal capacities of government at all levels; and the potentialities of consumer and community participation in developing and maintaining such systems of health care.

Section 102: This section declares the purpose of the Act to be to improve the organization, delivery, and financing of health care for all Americans by increasing health personnel, promoting ambulatory care, strengthening health planning, establishing national standards of health care benefits including coverage for medical catastrophes, encouraging provision of such benefits through comprehensive health care insuracne, and by assisting persons of low income or in poor health to secure that insurance.

TITLE II—PROVISIONS TO INCREASE THE SUPPLY AND IMPROVE THE DISTRIBUTION OF HEALTH CARE PERSONNEL

Student loans for training in the health professions and nursing

Section 201: The medical student loan provisions of the Public Health Service Act are amended to allow a medical student to borrow the full cost of tuition, fees, and reasonable amounts for room, board, books, supplies, and other related costs or $5,000 (whichever is less) each academic year. Under present law, 85 percent of this loan may be cancelled or repaid by the Secretary of HEW in return for 3 years service in designated areas of medical manpower shortage.

The bill authorizes $100 million a year for FY 1975, 1976, and 1977 for this purpose.

Loan provisions for student nurses are amended to allow loans covering the full cost of tuition, fees, and reasonable amounts for room, board, books, supplies and other related costs or $3,500 (whichever is less) each academic year. Under present law, 85 percent of this loan may be cancelled or repaid by the Secretary of HEW in return for 3 years service in designated areas of medical manpower shortage.

The bill authorizes $75 million a year for FY 1975, 1976, and 1977 for this purpose plus such sums as are needed in the following three years to allow students who started on the loan program to complete their education.

Scholarships grants and student loans for training in the allied health professions

Section 202: Scholarship grants may, in accordance with regulations of the Secretary of HEW, be awarded according to the needs of the individual, up to the full cost of his tuition, fees, books, equipment and living expenses.

The bill authorizes for this purpose $10 million for FY 1973, $30 million for FY 1974, and $50 million a year for FY 1975, 1976, and 1977.

Loan provisions for students in the allied health professions are amended to allow loans covering the full cost of tuition, fees, and reasonable amounts for room, board, books, supplies, and other related costs. Up to half of the loan may be forgiven at the rate of 20 percent a year for service in a public or nonprofit private institution or agency. Up to 100 percent of the loan may be forgiven at the rate of 33⅓ percent a year for appropriate service in an area designated as having a substantial shortage of allied health professionals.

The bill authorizes $7.5 million for FY 1973, $15 million for FY 1974, $40 million for FY 1975, $60 million for FY 1976 and $75 million for FY 1977 for this purpose plus such sums as are needed in the following three years to allow students who started on the loan program to complete their education.

Training for personnel needed in comprehensive ambulatory health care centers

Section 203: For purposes of training grants under the Public Health Service Act, this section amends the term "training center for allied health professions" to include junior colleges, colleges and universities which offer training in health care center administration or curriculums providing the allied health-professionals needed to operate comprehensive ambulatory health care centers.

It also establishes a new program of special project grants to help education institutions meet the cost of developing curriculums and training programs to develop the skills needed to administer and staff comprehensive ambulatory health care centers.

The bill authorizes $10 million for FY 1973, $25 million for FY 1974, $40 million for FY 1975, and $50 million a year for FY 1976 and 1977 for this purpose.

Grants to personnel in the health professions, allied health professions, and nursing for service in areas of critical need

Section 204: This section establishes a program of Federal grants to medical personnel in return for service in urban and rural areas of critical need to alleviate the maldistribution of health care personnel.

The Secretary of HEW is authorized to contract with individual health professionals, nurses, or allied health professionals who agree to provide health care services for a period of at least two years in an area designated by the Secretary, upon recommendation of the appropriate State comprehensive health planning agency, as having a critical need for those services.

The purpose of the grant is (1) to compensate the individual for providing health care services in an area where his normal compensation for services is less than equivalent health personnel receive elsewhere, and (2) to compensate the individual for his loss of time in getting established in a more lucrative area.

The amount of the grant, therefore, is that amount which, when added to the recipient's income from providing health care services for each contract year, provides a total income equal to 110 percent of the national annual median income for persons of comparable education and training, or 110 percent of his earnings from providing health care services in the previous year, whichever is greater.

In determining the precise amount of the grant, the Secretary may consider such factors as he deems relevant. He must consider, however:

(1) the national median annual income for the applicant's profession;

(2) the cost of living in the area of need;

(3) the background, training, and education of the applicant;

(4) the amount of income the applicant can reasonably expect to receive from service in the area;

(5) the number of persons of the applicant's profession needed in the area; and

(6) where appropriate, cost of equipment, supplies, and facilities.

The bill authorizes $10 million for FY 1973, and $50 million a year thereafter until June 30, 1977, for this purpose.

Effective date

Section 205: Title II becomes effective upon enactment.

TITLE III—COMPREHENSIVE AMBULATORY HEALTH CARE CENTERS

The purpose of this Title is to provide for grants to comprehensive ambulatory health care centers (as defined in amendments made by Section 309). The Public Health Service Act currently provides for grants for the construction or modernization of "out-patient facilities," but no funds are earmarked specifically for such facilities, nor are the facilities required to provide comprehensive ambulatory health care services. This Title would set up a special category of grants to comprehensive ambulatory health care centers which offer a greater range of medical services than current law now specifies for "out-patient facilities" grants.

Amendment of purpose

Section 301: This section amends the declaration of purpose of Title VI of the Public Health Service Act to recognize specifically the concept of a comprehensive ambulatory health care center.

Authorization of appropriations for construction and modernization grants

Section 302: For the next five fiscal years commencing after June 30, 1973, an additional $200 million a year is provided hereunder in grant authority to be used for the construction of comprehensive ambulatory health care facilities, or the modernization of such existing facilities. This sum is provided through a new allotment category which is separate from existing allotment categories for construction and modernization of hospitals and other medical facilities. It is contemplated that a portion of the funds available for grants hereunder will be used to assist nearly-constructed facilities to pay initial start-up and operation expenses during the first three years of operation of such centers.

State allotments

Section 303: Funds available for the construction and modernization of comprehensive ambulatory health care centers will be allotted to the several states on the same basis as allotments are now made for construction of hospitals and other medical facilities. Transfers from allotments for the construction and modernization of comprehensive ambulatory health care facilities to allotments for the construction of other types of facilities are not authorized. Existing law permitting carryovers of unused allotments from one fiscal year to the other is unchanged.

Priority of projects

Section 304: Priorities for awarding grants to comprehensive ambulatory health care centers would be given to proposed facilities in densely populated areas now lacking such facilities. This is to relieve pressures on general hospitals in such areas, to bring preventive and treatment facilities to populous areas not now receiving coordinated health care, and to create lower-cost facilities in lieu of expanding high-cost in-patient facilities.

State plans

Section 305: In its evaluation of the health needs of its citizens, the State health planning agency would be required to determine as part of its planning process the number of comprehensive ambulatory health care centers needed in the state and a plan for distribution of such centers. It would also have to adopt a program providing for construction of those comprehensive ambulatory health care centers identified as needed in its state plan, or for modernizing such existing facilities.

Recovery of funds

Section 306: This section would add comprehensive ambulatory health care centers to the list of types of health facilities from which recovery of federal funds may be made by the federal government from facilities which no longer qualify.

Loan guarantees and loans for modernization and construction of comprehensive ambulatory health centers

Section 307: The Public Health Service Act provides for loans, guarantees and interest subsidies for qualified agencies wishing to construct or modernize health facilities. This section adds comprehensive ambulatory health care centers to the list of types of facilites which qualify for such loans, guarantees and interest subsidies.

Definition of comprehensive ambulatory health care centers

Section 308: Comprehensive ambulatory health care centers are specifically defined so as to encompass only facilities which provide a wide range of preventive, diagnostic and treatment services for ambulatory patients and thus relieve overutilization of general hospitals and make health care more accessible.

TITLE IV—PROVISIONS TO STRENGTHEN HEALTH CARE PLANNING

Subtitle A—Health Report of the President; Council of Health Policy Advisers Health Report of the President

Section 401: Beginning in 1974, the President shall make a health report to the Congress no later than July 1 of each year on the status of the nation's health needs and health care system with a program for meeting those needs.

Council of Health Policy Advisors

Section 402: This section creates a three-man Council of Health Policy Advisers in the Executive Office of the President, its members appointed by the President with the advice and consent of the Senate.

Employment of Offices, Employees, Experts, and Consultants

Section 403: The Council is authorized to hire officers, employees and such experts and consultants as may be needed.

Responsibilities of Council

Section 404: This section outlines the responsibilities of the Council in assisting the President in the preparation of his Health Report and the setting and coodination of overall health policy.

The Council is required to make an annual health report to the President not later than April 1 of each year, starting in 1974. This report shall be transmitted to the Congress as a supplement to the next Health Report of the President to the Congress. In its first report to the President the Council shall specifically review and advise the President on health programs. The Council shall develop and recommend goals for a national health policy to promote efficiency, eliminate waste and duplication in the utilization of health facilities and resources, and shall recommend specific programs to streamline and consolidate health manpower programs.

Consultation With Other Advisory Bodies and Representative Groups—Cooperative Utilization of Services, Facilities, and Information

Section 405: The Council shall consult with the National Advisory Health Council, other advisory councils or committees as well as such representatives of the private sector as it deems advisable and shall utilize the services, facilities and information of other public and private organizations to the fullest extent to avoid unnecessary overlapping or duplication of effort.

Compensation of Members

Section 406: The Chairman shall be compensated at the rate of Level II and the other members at the rate of Level IV of the Executive Schedule Pay Rates.

Authorization of Appropriations

Section 407: Authorizes such sums as are needed to enable the Council to function, not to exceed $1 million in any fiscal year.

Subtitle B—Departmental recommendations and reports

Statements Regarding Effect of Departmental Proposal on Nation's Health Care

Section 411: Every agency of the Federal Government is required to include, to the fullest extent possible, in each report on proposals for legislation or other major Federal action significantly affecting health or the health care system, the impact of the proposal on the nation's health care system, adverse effects alternatives, the relative priority established by the Council of Health Policy Advisers, and any irreversible or irretrievable commitments of resources involved. Prior to making this report the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise relative to the health impact of the proposal. These comments, with comments of appropriate Federal, State and local agencies shall be made available to the President, the Council, and the public, and shall accompany the proposal through the existing agency review process.

Agency Obligations Under Other Federal Statutes

Section 412: The preceding section (sec. 411) shall not affect the obligations imposed on Federal agencies by other Federal statutes.

Subtitle C—Comprehensive health planning amendment

Part A—Definition of "Appropriate Comprehensive Health Planning Agency

Section 431: Adopts for purposes of the entire Public Health Service Act the definition of "appropriate comprehensive health planning agency" provided in section 444 of this bill.

Part B—State and Areawide Comprehensive Health Planning Agencies

State agency review and certification

Section 441: In order to qualify for the comprehensive health planning grants currently provided by section 314 of the Public Health Service Act, a State plan for comprehensive State health planning must, in addition to existing requirements, provide for the project certification procedures established by this Part B.

Areawide comprehensive health planning agencies

Section 442: This section increases the funds authorized for project grants for areawide health planning to $60 million for FY 1973, $100 million for FY 1974, and $100 million for FY 1975.

To be eligible for the grants the agency must be prepared to function as the "appropriate comprehensive health planning agency" for the area or region. The agency must be prepared to play a strengthened role in coordinating areawide health affairs, including the determination of health needs, capital expenditure programs, cooperative use of facilities, optimum use of available manpower, and improved management techniques. The agency must provide for consultation with the areawide health planning council and other groups, for the representation of health care facilities and physicians, for enlisting public support, and for educating the public concerning the proper use of facilities and services available.

Comprehensive procedure for review and certification

Section 443: In the case of applications for Federal grants, loans, or other financial aid involving more than $100,000 which require certification by the appropriate comprehensive health planning agency, the application may be approved by the Secretary only after he is satisfied that the review provisions of this section have been met. The section, strengthening the role of the agency, requires that it have reasonable opportunity to review and comment on the application, and has certified to its essential need and high priority. If the "appropriate comprehensive health planning agency" is a metropolitan or other local planning agency, that agency, after reviewing the application, must have communciated its comments to both the applicant and the State agency. The State planning agency must make its own determination that the application fits in with the State's overall needs and priorities as expressed in the State plan. If two or more States are involved, each State agency must make a separate certification as to the need and priority of the project in its State.

Definitions

Section 444: In the case of a project affecting an entire State, the appropriate comprehensive health planning agency is the agency designated in the State plan. In the case of a project affecting a region,

metropolitan area, or other local area, the appropriate comprehensive health planning agency is the agency or organization designated under section 442 of this bill or such other public or nonprofit private agency determined in accordance with regulations to be performing the required health planning functions.

TITLE V—PROVISIONS TO MAKE COMPREHENSIVE HEALTH CARE INSURANCE AVAILABLE TO ALL

Title V of the bill contains provisions designed to accomplish three major objectives:

(1) To establish minimum nationwide standards for individual health care benefits;

(2) To establish a system of nationwide health care insurance, utilizing both privately and publicly financed plans, which will assure that every individual requiring medical care will have the funds required to pay the cost of the care when his need for it arises, irrespective of his economic status; and

(3) To control the cost and quality of medical care to the consumer by strengthening controls over the prices charged by institutional and individual providers of medical care that may be exercised by the public and private insurers who pay the providers' charges. Provisions to achieve the first of these objectives appear in Subtitle A, which establishes the Minimum Standard Healthcare Benefits, as well as in provisions of the remaining subtitles which implement these minimum standards by requiring that they be met as a condition to eligibility for the tax and other public financial incentives provided under those other subtitles. Provisions to serve the second of these major objectives appear in Subtitles B and C, which provide federal tax incentives for the establishment of private health insurance plans by employers and individuals, and in Subtitle D, which supplies public financial assistance, to be shared by federal and state governments, for state health care insurance plans designed to meet the needs of needy and uninsurable individuals. Provisions to accomplish strengthening controls over the cost and quality of medical care to the consumer, although woven into the fabric of all the provisions of Title V, appear mainly in the institutional rate reimbursement provisions of Subtitle D, in those provisions of Subtitle A which permit private insurers to impose limits on the charges for which providers of medical care may be reimbursed, as well as in those provisions of Subtitle A which, through the definition of minimum standard health care benefits, shift emphasis from high-cost in-patient hospital care to lower-cost types of ambulatory and preventive care.

SUBTITLE A

Minimum nationwide standard health care benefits established

Section 501: Minimum national standards for the health care of all individuals are prescribed by section 501 of the bill. The terms of the bill by which these standards are to be put into effect will make them nationwide in their application; will guarantee that the minimum standards of health care required will be at least as high or higher for needy and uninsurable individuals as for others; will assure that the standards prescribed will operate to set a minimum rather than a maximum for health care actually obtainable by an individual; will shift emphasis from the present day concentration on high-cost institutional and specialized health care to lower-cost ambulatory and preventive care which serves the comprehensive health care needs of an individual; and will permit the minimum standards to be phased in over a period of time in accordance with a schedule of priorities that will not give rise to unrealistic expectations for medical care beyond the level of medical facilities and professional talent the Nation is capable of delivering.

Nationwide application of minimum health care standards laid down by section 501 is effected by insertion in federal law, namely the Internal Revenue Code and the Social Security Act, of requirements that benefits paying for not less than the health care required under the minimum standards must be included in private or state established health care plans as a condition of eligibility for the federal tax or other public financial assistance accorded under the bill (see I.R.C. §§ 280 and 213, added by the bill).

To assure that the health care standards prescribed under section 501 will operate only as a minimum and will not discourage an individual's initiatives to secure even higher standards of health care for which he is willing to pay, the bill contains several provisions making it clear that the standards named are only minimums and that provision of benefits for high levels of medical care will not prevent a health care benefit plan from qualifying for advantages accorded under the new law. Such provisions include the one making it clear the standards established are only minimums (I.R.S. § 219); the ones specifically permitting additional benefits (I.R.C. §§ 280(c)(9)(C) and 213(g)(3)(D); the ones permitting a qualified private health care plan to provide for a covered individual's payment of medical expenses exceeding established "deductible" and "copayment" standards (I.R.C. §§ 280(c)(9) and 213(g)(3)); and the ones permitting qualifying health care plans to include various other "optional" provisions (I.R.C. §§ 280(c) and 213(g)(3)).

Provisions in the bill to assure that the minimum standards of health care required to be provided needy and uninsurable individuals will be no less than those required for the more fortunately situated appear in the sections that apply the definition of minimum standard health care benefits to private and publicly assisted plans alike Social Security Act § 2002(a); I.R.C. §§ 280(c)(4) and 213(g)(1), as well as in the benefit phase-in schedules requiring the timing of benefit implementation to be faster under publicly assisted plans for needy and uninsurable individuals (Social Security Act § 2002(a)) than under private qualified plans (I.R.C. §§ 280(c)(4) and 213(g)(1)).

Provisions in the bill to stimulate a shift in emphasis to the provision of comprehensive health care on an ambulatory and preventive care basis, and away from reliance on higher-cost in-patient institutional care appear throughout the definition of the Minimum Standard Healthcare Benefits generally (see I.R.C. § 219) and particularly in provisions which bar higher co-payments for ambulatory-treatment of a given condition than for institutional treatment of the same condition.

The bill contains provisions to meet the problem of preventing the required minimum standard of health care benefits from outstripping the Nation's health care delivery capabilities. This is accomplished by provisions in the bill which assign one of three "priority designations" to each of the benefits in the Minimum Standard Healthcare Benefits (I.R.C. § 219(b)) and by related provisions which require benefits in the several priority categories to be phased-in in accordance with a schedule prescribed in the law (I.R.C. §§ 280(c)(4) and 213(g)(1)). To permit the flexibility required to deal with unexpected shortfalls in development of the health care facilities and services needed to deliver the care covered by a particular benefit, the President is empowered, under restricted conditions stated in the law, to defer the scheduled time for phase-in of benefits that have not become legislatory at the time he acts (I.R.C. § 219(f)).

The initial Minimum Standard Healthcare Benefits for individuals covered under qualified private plans and those for individuals covered under qualified public plans include the following:

(A) For non-occupational accidents and illnesses other than pregnancy:

(1) Diagnosis and non-surgical treatment by a physician in his office or at a hospital on a non-in-patient basis—three visits per year for individuals covered under private plans and six visits per year for individuals covered under public plans. Patient pays $2.00 per visit.

(2) Treatment by surgery or radiation therapy by a physician in his office or at a hospital on a non-in-patient basis—unlimited visits under both private and public plans. Patient pays $2.00 per visit.

(3) X-rays, laboratory tests, electrocardiograms, and other diagnostic tests performed in connection with the care provided in (1) or (2) above—unlimited coverage under both private and public plans. No co-payment required.

(4) Birth control counseling by a physician in his office or fitting of contraceptive devices—covered only under public plans. No copayment required.

(5) Well-baby care (including immunizations) during first six months—six examinations covered under both private and public plans. No co-payment required.

(6) Well-baby care (including immunizations) during next 18 months—six examinations covered only under public plans. No co-payment required.

(7) Physical therapy rendered or prescribed by a physician—covered only under public plans. Patient pays 20%.

(8) Diagnosis and treatment of any condition by a physician in a hospital or extended care facility—unlimited subject to co-payment of $2.00 per day during the first 30 days of confinement and $5.00 per day thereafter for individuals covered under private plans, and $2.00 per day for the first 120 days of confinement and $5.00 per day thereafter for individuals covered under public plans.

(9) Annual oral examination by a dentist (including prophylaxis)—applicable only to children under age 16 covered under public plans. No co-payment required.

(10) Amalgam fillings, extractions, and dentures—applicable only to children under age 19 covered under public plans. Patient pays 20%.

(11) Drugs requiring a prescription and certain life-preserving non-legend drugs prescribed by a physician—covered only under public plans. Patient pays $1.00 per prescription.

(12) Prosthetic appliances—covered only under public plans. Patient pays 20%.

(13) Hospital services (semi-private accommodations and ancillary services while confined as an in-patient)—the first 30 days of confinement for individuals covered under private plans and the first 120 days of confinement for individuals covered under public plans. Patient pays $5.00 for each day of covered confinement.

(14) Extended care facility services (semi-private accommodations and ancillary services while confined as an in-patient)—the first 60 days of confinement for individuals covered under private plans and the first 120 days of confinement for individuals covered under public plans. Patient pays $2.50 per day of covered confinement.

(15) Home health agency services under a prescribed plan—those rendered during the first 90 days of the plan for individuals covered under private plans and during the first 180 days of the plan for individuals covered under public plans. The patient pays $2.50 per day of services rendered.

(B) For pregnancies. Diagnosis, treatment, and institutional confinement for pregnancy and any complications thereof from date of conception until the ninetieth day following termination of the pregnancy—covered only under public plans. Patient pays 20%.

Co-payments by patients have been used as a deterrent to excessive utilization of certain services. However, families have been protected against having these co-payments be a serious financial burden by means of a limit on the total amount of co-payments that may be required in any one year.

In the absence of a Presidential deferral, those Minimum Standard Healthcare Benefits that are initially provided individuals covered under qualified public plans but not private plans will become available to individuals covered under qualified private plans on January 1, 1980. Similarly the proposed 1980 improvements in the Minimum Standard Healthcare Benefits for qualified public plans will become effective for qualified private plans in 1985.

Catastrophic illness

The initial Minimum Standard Healthcare Benefits include a catastrophic benefit applicable to both individuals covered under qualified private plans and individuals covered under qualified public plans. Any covered individual who incurs $5,000 of medical expenses (including expenses reimbursed by insurance) within 12 consecutive months shall immediately become covered for essentially all ambulatory care and up to 750 days of institutional and home health care per illness. Initially these benefits may be subject to a maximum dollar limitation of $250,000 per person. This benefit limitation must be dropped from public plans January 1, 1980, and from private plans by January 1, 1985. At that same time the requirement that the covered individual incur $5,000 of medical expenses is also eliminated. (I.R.C. §§ 219(c)(2), 219(e)(10), 280(c)(9)(E), and 213(g)(3)(E); Social Security Act §§ 2002(e).)

To further guard against financial hardship, annual limits on the total amount of co-payments which may be required in any one year are provided. These limitations are income-related and range from $50 to $1,000 (I.R.C. §§ 280(c)(9)(B) and Social Security §§ 2002(f)(1)).

SUBTITLE B AND C

Qualified employee and individual healthcare plans

Subtitles B and C of the bill provide significant federal income tax incentives to stimulate the extension of comprehensive health care insurance under qualifying privately financed plans maintained by employers for employees, or by individuals for themselves and their dependents.

Qualified employee healthcare plans

Section 511: The bill amends the Internal Revenue Code to restrict the federal income tax deduction otherwise allowable to an employer for any amount paid or incurred by the employer for medical care of any employee or his dependents. This deduction is restricted to 50 percent of the described expense for medical care of the employee paid or incurred in 1975, 25 percent of that expense in 1976, and is completely eliminated thereafter. However, if the employer establishes and maintains a Qualified Employee Healthcare Plan, the restriction will not apply, and 100 percent of the described expense is deductible. This section is applicable to taxable years ending after December 31, 1974, except that, in the case of any employer plan providing medical care for employees which was established pursuant to a collectively-bargained agreeemnt, the restrictions on the deduction will not apply until the expiration of the agreement, or December 31, 1976, whichever occurs first.

Each Qualified Employee Healthcare Plan must provide at least the Minimum Standard Healthcare Benefits described in Subtitle A. A qualified plan must be in writing, adopted by the employer, and communicated to his employees. Substantially all active full-time employees must be eligible to be covered, and the coverage must continue upon certain terminations of employment or certain temporary absences of the employee. A limitation is placed on employee contributions to the plan scaled to wages. A coordination of benefits provision must be included in a qualified plan to avoid costly duplication of coverage. The plan also must permit eligible employees to seek coverage instead from any approved health maintenance organization in cases which specified conditions are satisfied.

Qualified individual healthcare plans

Section 521: The Internal Revenue Code presently restricts an individual's deduction for his expenses paid for insurance which constitutes medical care to an amount (not in excess of $150) equal to 50 percent of the amount actually paid. The portion of the expense not so deductible may be deducted only to the extent that it exceeds 3 percent of adjusted gross income. The bill amends the Internal Revenue Code, for taxable years commencing after December 31, 1974, to remove these restrictions and to allow 100 percent of medical care insurance premiums as a deduction, if such expenses are paid by an individual who is covered by a Qualified Individual Healthcare Plan, a Qualified Employee Healthcare Plan, or a Qualified State Healthcare Plan.

Each Qualified Individual Healthcare Plan must provide at least the Minimum Standard Healthcare Benefits described in Subtitle A. A qualified individual insurance contract must contain provisions which obligate the insurer to renew the policy, and allow covered dependents to continue their coverage under the policy after the death of the insured as if he were still alive.

SUBTITLE D

Grants to States for qualified State healthcare plans for the needy and uninsurable

Section 531: The bill adds a new Title XX to the Social Security Act to provide for the establishment of publicly subsidized health care insurance plans on a state by state basis. Each state will have a health insurance pool, which all private entities in that state (both profit and non-profit) which currently indemnify the cost of health care would be required to underwrite. One or more private insurance carriers will be designated by the state to administer the state plan on a retention accounting basis. These state plans will guarantee that Minimum Standard Healthcare Benefits are made available to individuals and families who previously were unable to purchase health care insurance, either because of their low income or their extremely poor health (secs. 2001; 2002(a); 2002(d); 2003(a); 2003(b); 2010; 2015(d) of Title XX).

Individuals or families who are eligible to receive public cash assistance under a program financed in whole or in part by federal funds will be enrolled in the state plan automatically, and without cost. Those individuals who are financially capable of procuring health insurance, but who are uninsurable because of poor health, may enroll in the state plan at their own expense; however, these individuals may not be charged more than the established rate for other individuals enrolled in that state plan. Enrollment of other individuals and families who had low incomes the previous year (less than $4,000 for single individuals, less than $6,000 for a family of two, and less than $8,000 for a family of three or more) is voluntary. Such individuals and families would elect to be enrolled once each year and would be required to make modest contributions toward the cost of insuring their own health care, depending on the size of their family and the amount of their income. No assets or other means tests are required (secs. 2003(a); 2003(b); 2005(a); 2005(c); 2006(a); 2006(b) of Title XX).

The premiums to be charged for each policy year under a state plan will be actuarially determined in each state, and for each family size risk category. The established premiums are subject to annual review by designated federal and state agencies, and if the premiums are found to be unjustifiably high within a particular state, the Secretary of Health, Education, and Welfare may direct a reduction in the federal appropriation for that state's premium cost. Each state has the primary obligation to provide the uncontributed premium cost for its plan; but if the state implements and utilizes controls which are designed to promote the delivery of lower-cost higher-quality institutional health care services, if it exempts Qualified State Healthcare Plan transactions from state taxation, and if it eliminates discriminatory state tax treatment among domestic health care insurers, then the state will receive federal appropriations reimbursing it for a percentage of its total uncontributed premium cost. This federal percentage reimbursement is greater in poor states than in richer states. The base figure may be between 70 and 90 percent, depending on the state's per capita income, but further adjustments to this percentage may be made if institutional rates charged in any particular state for health care services are unjustifiably high in comparison with other states. States are given the authority to review in advance the rates to be charged by health care institutions for their services, and to refuse to approve these rates for payment under the state plan. The cost and quality of health care services provided by physicians and other medical practitioners will be controlled in each state.

A professional service, otherwise covered by these state plans, shall be reimbursed only if it falls within professionally established utilization guidelines or is found to be necessary health care by a qualified peer review committee. Furthermore, no charge for a necessary service shall be reimbursed to the extent that it exceeds the prevailing charge in a locality for similar services (secs. 2002(f)(2); 2004; 2006(e); 2008; 2009; 2010(c)(3); 2012(a); 2012(d); 2014 of Title XX).

If the premiums collected and other monies received under the state plan are not sufficient to pay the claims incurred and the other costs of operating the state plan, the private underwriters of the plan shall bear the losses to the extent of 3 percent of the premiums collected for that year. The state will bear the excess losses and will receive a federal appropriation reimbursing it for that portion of the excess losses equal to the base federal percentage for that state's premium costs (secs. 2010 and 2012(b) of Title XX).

To avoid costly duplication of coverage, enrollment is not available to those individuals or families covered under a Qualified Employee Health Care Plan; enrollment is not generally available to classes of individuals or families who will receive substantially all of their medical care under a non-Social Security federal or state program; all eligible state plan enrollees must have Medicare Part B supplementary medical insurance coverage, the material cost of which would be borne by the state and the benefits of which would be coordinated with state plan benefits (secs. 2002(f)(3); 2003(a)(2); 2003(a)(3); 2013 of Title XX).

Specific provision is made in the bill (sec. 2012(a) of Title XX) to protect the federal government against having to bear such part of the cost of a Qualified State Healthcare Plan as may be attributable to a state's decision to have the plan provide greater benefits than the minimum required for qualification under Title XX.

Applicants for enrollment in the state plan must provide and certify all information required to make an eligibility determination. Any federal or state agency may be required to furnish information deemed by the administering carrier to be necessary to verify eligibility (secs. 2005 and 2011 of Title XX).

Capital, surplus, and reserve requirements are provided to protect claimants against the insolvency of any underwriter of qualified healthcare plans. A mechanism for making assessments against other carriers in case of an insolvency is also provided (sec. 2016 of Title XX).

Carrier compliance

The bill requires insurance carriers to pool their efforts and resources to insure that all individuals and families will receive higher-quality, lower-cost health care benefits. This section provides that these carriers will not be subject to federal or state antitrust legislation solely as a result of their efforts to comply with the provisions of the bill.

Conforming amendments to title XVIII of the Social Security Act

Section 533: Individuals and families eligible for enrollment in the Medicare Part B supplementary medical insurance program are required to be enrolled in said program as a condition for enrollment in a Qualified State Healthcare Plan. Section 1837 of Title VIII of the Social Security Act is amended by the bill to remove existing limitations on Medicare Part B enrollment which might prevent otherwise eligible state plan enrollees from qualifying for Qualified State Healthcare Plan coverage. Each state which has a Qualified State Healthcare Plan is required to pay the premium for supplementary medical insurance benefits under Part B of Title XVIII of the Social Security Act for individuals and families who are eligible to enroll in the Part B program and who are also eligible to receive public cash assistance under a federally financed program. Section 1843 of Title XVIII is amended by the bill to allow a state to enter into arrangement with the Secretary of Health, Education, and Welfare pursuant to which all of these indigent state plan enrollees will be enrolled under the program estabished by Part B of Title XVIII.

Conforming amendments to title XIX of the Social Security Act

Section 534: The bill amends Title XIX of the Social Security Act (Grants to States for Medical Assistance Programs) to avoid unnecessary and costly duplication of federally subsidized health care programs. Title XIX presently pays for the cost of various medical items and services which will be required to be provided under Qualified State Healthcare Plans. On July 1, 1975, or upon a state's establishment of a Qualified State Healthcare Plan, whichever occurs first, payment for items and services now covered under Title XIX would be excluded if they also would be covered under a Qualified State Healthcare Plan. Title XIX will continue to pay for items and services which are not covered by Qualified State Healthcare Plans.

Conforming amendments regarding "reasonable cost"

Section 535: The bill (sec. 531 of the bill and secs. 2002(f)(2); 2008; and 2009 of the new Title XX it adds) establishes standards for strengthening controls over the quality and cost to enrollees for health care services provided by physicians or other medical practitioners and for health care services rendered to state plan enrollees in health care institutions. The bill provides that these standards shall apply to determine "reasonable cost" under the existing federally subsidized health care programs established by titles V, XVIII, and XIX of the Social Security Act.

Conforming amendments to the Internal Revenue Code

Section 536: The premiums and other monies received pursuant to the operation of a Qualified State Healthcare Plan will, to the extent feasible, be invested by the administering carrier in interest-bearing obligations and other income-yielding securities. The bill amends Section 115 of the Internal Revenue Code to exempt this interest or other income from federal income taxation.

Effective date

Section 537: Sections 531, 532, 533, 534, 535, 536, and 537 of the bill are to become effective upon enactment, except that Qualified State Healthcare Plans will not provide benefits before July 1, 1974.

By Mr. HART:

S. 1103. A bill to provide for public financing of campaigns for nomination for election, or election, to the Congress of the United States. Referred to the Committee on Rules and Administration.

CONGRESSIONAL ELECTION FINANCE ACT OF 1973

Mr. HART. Mr. President, I send to the desk for appropriate reference the Congressional Election Finance Act of 1973, a bill to provide adequate public subsidies for primary and general election campaigns for the Senate and the House of Representatives.

The bill is not designed to cure all the defects and strains in the present process of election campaigns. Its primary goal is to permit serious candidates to avoid reliance on large private contributions.

At this point I ask unanimous consent that a copy of the bill, together with a short memorandum describing its operation, a section-by-section analysis, and a table indicating the subsidies afforded Senatorial candidates from each State, be printed in the RECORD immediately following my remarks.

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

(See exhibits 1, 2, 3, and 4.)

Mr. HART. Mr. President, in 1971, under the dedicated and effective leadership of the senior Senator from Rhode Island (Mr. PASTORE) the Congress finally cut the Gordian knot of campaign regulation and passed the first major revision of our campaign financing laws in almost half a century, the Federal Election Campaign Act under which candidates operated in 1972. Hopefully, we can build upon that landmark without waiting another half century. Certainly the news stories of the past 12 months and the public disgust they have generated should convince us that it is time we traveled further down the road toward a healthy political climate at campaign time.

Teddy Roosevelt and Harry Truman both concluded, after serving in Government at every level, that we should subsidize our election campaigns. I believe they were right. Let us not beat about the bush. As I emphasized during the so-called ITT hearings on Mr. Kleindienst's nomination as Attorney General last year, big money contributors can only be relieved of excessive influence—or what is as bad, the appearance of influence in the eyes of a wisely distrustful electorate—if politicians are relieved of excessive dependence on big money contributors.

I know that many will regard this as a new raid on the Treasury by greedy office holders. But I think many people, upon reflection, will realize that this will be as wise an investment as a democracy can make. When a politician's success depends on a combination of dollars and votes, the Nation is clearly less democratic than it would be if victory depended on votes alone. Congress annually disposes of a Federal budget in the hundreds of billions of dollars and takes actions with tremendous impact on a trillion-dollar economy, not to mention their impact on the incalculable values of our health, safety, and liberty. Surely in that context public campaign subsidies would be a growth stock for everyone.

Let me indicate briefly what this bill involves, and what it does not involve. First, the bill does not force every congressional candidate to operate under its provisions. Instead, it offers a two track system. It would still be possible for a House or Senate candidate to refuse Federal moneys and to run a campaign in the traditional manner raising the money himself under the limits of existing law. But that candidate in all likelihood would have to be prepared to be labeled as the beneficiary of big-money contributors.

Second, the bill would not apply to presidential elections in regard to which Congress has already endorsed the general concept of publically arranged financing by enacting the tax checkoff provision of the 1971 Revenue Act.

Third, this bill does not seek to tell the candidate how to run his campaign. He is left free to "do his own thing."

What the bill is designed to do is to provide a subsidy adequate to run without further resort to private financing. Senatorial candidates would receive 10 cents for each voting-age person in their State in the primary election and 15 cents in the general. There would be minimum amounts for the smaller States.

These amounts may need to be adjusted in light of hearings, but based on a range of recent expenditures by successful candidates, I believe they would provide enough money for thorough and effective, if not extravagant, campaigns. Nevertheless, in order to permit some "play at the joints" for public involvement and individual participation in the campaign process beyond the ballot box, subsidized candidates could also raise small amounts privately within strict limits. Senate candidates might gather private funds up to 2 cents per voting age resident in the primary and 3 cents in the general. The table I have offered for the RECORD show the amounts—rounded off—this would provide in each State for subsidy and for all expenditures permitted if private funds were also used.

House candidates would receive a subsidy of 14 cents per voting-age resident in the primary election and 20 cents in the general. They could additionally raise private funds up to 3 cents per person in the primary and 5 cents in the general. Since most districts cluster around 300,000 voting-age population, the typical

House candidate would receive a primary subsidy of $40,000 in the primary and $60,000 in the general election. If they used private funds, they could spend a total of $50,000 in the primary and $75,000 in the general.

The possibility of providing subsidies which varied among House districts and also the arguments for providing primary subsidies as large as those in the general election were considered and have merit, but I concluded that, on balance, the disadvantages of each outweigh the rationale for them.

Finally, if a candidate does supplement his subsidy with private funds, no individual or organization may give more than $250 to a Senate or House candidate.

Any candidate who willfully violates the basic provisions of the act is subject to a fine of up to $50,000 or the total amount of his subsidy, whichever is greater as well as up to 5 years in jail.

Minor party candidates would be eligible for Federal funding according to ratios based on the party's previous performance at the ballot box.

Participation is all or nothing. Those receiving Federal funds in the primaries must remain under the act through the general election.

The problem of the frivolous candidate or the political charlatan is one that has always plagued proponents of Federal campaign financing. How do you screen out publicity seekers or other frivolous candidates who might easily be attracted by more Government campaign moneys.

Under my bill no candidate would be eligible for the Federal money until he or she:

Had met all State filing and petition requirements for candidacy.

Had sworn to comply with the act.

Had filed a security deposit amounting to 20 percent of the Federal money the candidate is eligible for.

How does the candidate get the security deposit? He must raise it in small amounts—$250 maximum from each source—from a sizable number of citizens.

If the candidate fails to get 10 percent of the vote in the next election, the security deposit is forfeited to the Government.

If he fails to get 5 percent of the vote, he forfeits the security deposit and, in addition, is personally liable for the return of all Federal campaign funds disbursed to him.

Candidates receiving more than 10 percent of the vote must return the security deposits to donors.

In developing this bill, I have had extremely helpful assistance from a number of private groups and individuals with whom I have worked closely for several months. In particular, Common Cause provided a great number of provisions based on their own work in this area which have been incorporated in this bill and many other valuable suggestions, as well as the analysis based on their monitoring of the 1971 act. The National Committee for an Effective Congress also provided invaluable counsel and the benefit of their long experience in this difficult field.

Neither group, nor anyone else who worked with me on this bill is committed to each and every provision. Nor am I. It is certainly not offered as the optimal solution. Any venture into this morass involves endless hard policy choices, close constitutional questions, and innumerable practical problems to be met. I hope prompt hearings will be held to explore all of these issues further. But I believe this is a plausible scheme which can serve as a vehicle for discussion in the months ahead. It is a reasonable effort to pass constitutional muster under the decisions of the Supreme Court involving the test of equal protection for varying treatment of different parties. And I also believe it meets the requirements of the first amendment.

Above all, it is time Congress took the lead in renewing public interest in public financing of our congressional elections. This bill is an attempt to make a beachhead toward that goal.

EXHIBIT 1

S. 1103

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 "Congressional Election Finance Act of 1973".

DECLARATION OF PURPOSE

SEC. 2. It is the purpose of this Act—

(1) to provide public financing of certain costs incurred by candidates campaigning for nominaton for election, or for election, to Congress, thereby increasing the opportunities for meaningful participation in such electoral contests without regard to the financial resources available to individual candidates;

(2) to prevent the relatively few individuals who have access to great wealth from having an excessive influence upon the presentation of competing viewpoints within the political process and from pre-empting the channels of mass communication as candidates or as contributors;

(3) to provide for a determination of the extent to which present expenditure levels in Congressional election campaigns may be substantially higher than necessary for the conduct of a competitive, informative, and effective campaign; and

(4) to reduce the pressure on Congressional candidates for dependence upon large campaign contrbutions from private sources due to unprecedented campaign expenditure levels and the absence of public financial assistance.

DEFINITIONS

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

(1) "Board" means the Congressional Election Board established under section 5:

(2) "Campaign expenditure" means any expenditure incurred by a candidate or any person acting on his behalf in connection with his campaign for nomination for election, or for election to Congressional office during the campaign expenditure period and any such expense incurred prior to the campaign expenditure period for goods or services to be used or rendered during such period. The term "campaign expenditure" shall include amounts expended to qualify as a candidate under State election law including fees, but shall not include any amounts posted as security under section 7(a)(2).

(3) "campaign expenditure period" means the 18-month period preceding the date of the general election for the office which a candidate seeks;

(4) "candidate" means an individual who has taken the steps necessary under applicable law to qualify to have his name appear on a ballot for nomination for election, or for election, to the Congress as a Senator, Representative, Delegate, or Resident Commissioner;

(5) "Candidate Campaign Account" means one bank account established by a candidate for Congressional office in a bank insured by the Federal Deposit Insurance Corporation for the sole purpose of receiving subsidy payments from the Fund and contributions or other monies raised from personal resources.

(6) "Congressional office" means the office of Senator or Representative in or Resident Commissioner or Delegate to, the Congress of the United States;

(7) "contribution" means any

(A) payment, distribution, loan guaranty, deposit or gift of money or anything else of value, to a candidate, his agent or political committee;

(B) payment by any person other than the candidate, his agents, authorized agents or political committees, of compensation for the personal services of another person which are rendered to a candidate's campaign;

(C) goods, advertising or services furnished to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such goods or services;

(D) payment by any person other than the candidate, his authorized agents or political committees for any goods or services used by a candidate's campaign.

(E) expenditure in connection with any other activity undertaken independently of the candidate's campaign,

made or furnished for the purpose of influencing the results of a primary for the nomination for election, or the results of an election to Congressional office, or for the purpose of paying obligations incurred in connection with such elections.

The term "contribution" shall not be construed to include

(A) personal services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee,

(B) communications by any organization, excluding a political party solely to its members and their families on any subject, and

(C) communications (including advertisements) to any person on any subject by any organization which is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for Congressional office,

(D) normal billing credit for a period not exceeding 30 days.

(8) "funds" means the Congressional Campaign Assistance Fund established under section 4;

(9) "major party" means—

(A) a political party whose candidate received 25 percent or more of the total number of votes cast for all candidates in any determining election; or

(B) a candidate not affiliated with a political party who, as such a candidate, received 25 percent or more of the total number of votes cast for all candidates in the next preceding general election for the same office as the election for which campaign assistance is sought under this Act;

(10) "minor party" means—

(A) a political party whose candidate received 10 percent or more (but less than 25 percent) of the total number of votes cast for all candidates in any determining election; or

(B) any candidate not affiliated with a political party who, as such a candidate, received 5 percent or more (but less than 25 percent) of the total votes cast in the next preceding general election for the same office as the election for which campaign assistance is sought under this Act;

(11) "determining election" means—

(A) in the case of a candidate for nomination for election, or for election, as a Representative, Delegate, or Resident Commissioner, the most recent general election held

for the election of a Representative in the district from which the candidate seeks election, or the most recent gubernatorial election held in the State in which that district is located, or the most recent Presidential election;

(B) in the case of a candidate for nomination for election, or for election, to the office of Senator, the most recent gubernatorial election held in the State in which he seeks election, or the most recent Presidential election;

(12) "Party campaign account" means one bank account established by a national committee or the State central committee of a political party for the sole purpose of receiving contributions for distribution to congressional candidates under this Act.

(13) "person" means individual, partnership, company, association, firm, society, or other organization or group of persons which may lawfully make a political contribution under the laws of the United States and under applicable state law. An organization, and any parent, subsidiary, affiliate or regional branch of such organization shall constitute one "person" for purposes of this Act.

(14) "personal resources of the candidate" means personal funds or property of the candidate and the personal funds or property of this immediate family.

(15) "immediate family" means any child, parent, grandparent, brother, sister, or spouse of the candidate, any dependent of the candidate or of his spouse as defined by the Internal Revenue Code of 1954, and the spouse of any such individuals.

(16) "State" means each of the United States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(17) "voting age population" means resident population, eighteen years of age or older. Within sixty days after the date of enactment of this Act, and during the first week of January, 1974, and every year thereafter, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

ESTABLISHMENT OF FUND

SEC. 4. There is established within the Treasury a trust fund to be known as the "Congressional Campaign Assistance Fund". There is appropriated to the fund $500,000,000 out of amounts in the general Fund of the Treasury not otherwise appropriated. Any money in the Fund not needed for current operation shall be invested in bonds or other obligations of, or guaranteed by, the United States. The Fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it, any interest or other receipts on investments, and amounts otherwise covered into the Fund by the Board under this Act. No amounts shall be transferred out of the Fund except as may be provided in appropriation Acts.

ESTABLISHMENT OF BOARD

SEC. 5. (a) There is established a Congressional Election Finance Board which shall be composed of seven members, not more than three of whom shall be affiliated with the same political party. Members of the Board shall be appointed by the President by and with the advice and consent of the Senate, for a term of six years, except that, of the members first appointed to serve—

(1) three shall be appointed for terms of two years,

(2) two shall be appointed for terms of four years, and

(3) two shall be appointed for terms of six years.

Any individual appointed to fill a vacancy occurring for reasons other than expiration of a term shall be appointed only for the unexpired term of the member whom he succeeds. A member whose term expires shall continue to serve until his successor qualifies.

(b) The members of the Board shall elect a Chairman and Vice-Chairman from among their members to serve for terms of 2 years each. No member elected to be Chairman or Vice-Chairman may succeed himself in such office. The Chairman shall be responsible on behalf of the Board for administrative operations of the Board and shall appoint and fix the compensation of such officers and employees as he deems necessary to assist the Board in the performance of its functions. The Board may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. The Vice-Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(c) A vacancy in the Board shall not impair the right of the remaining members to exercise the power of the Board. Three members of the Board shall constittue a quorum.

(d) The Board shall have an official seal which shall be judicially noticed.

(e) At the close of each fiscal year the Board shall report to the Congress and to the President concerning its activities and operations during that fiscal year, including the names, salaries, and duties of all individuals employed by it and the moneys it has disbursed. The Board may make such additional reports to the Congress and to the President on the matters within its jurisdiction, including recommendations for additional legislation, as it deems desirable.

(f) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(60) Members, Congressional Election Finance Board."

(g) The principle office of the Board shall be in or near the District of Columbia, but it may meet or exercise any of its powers at any other place and, during election campaigns, establish field operations in such locations as it deems appropriate.

DUTIES AND POWERS

SEC. 6. (a) It shall be the duty of the Board—

(1) to develop forms for the making of such reports and statements as it may require;

(2) to prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this Act;

(3) to develop a filing, coding, and cross-indexing system consistent with the purposes of this Act;

(4) to make the reports and statements filed with it available for public inspection and copying during regular office hours, and to permit copying by hand, or by copying machine at the expense of the individual requesting the copies;

(5) to preserve such reports and statements for a period of ten years from the date of receipt; and

(6) to do such other things as may be necessary to carry out the provisions of this Act.

(b) In carrying out its duties under subsection (a), the Board shall consult with the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives, and utilize the reporting, filing, and accounting procedures and forms developed by them in carrying out their duties under title III of the Federal Election Campaign Reform Act of 1971 to the greatest extent possible. To the extent the Board determines that its duties under this Act can be satisfactorily performed by using the data available to the Secretary of the Senate and the Clerk of the House of Representatives, it shall not require additional or separate reports to be made to it by any candidate who is complying with the provisions of title III of that Act.

(c) The Board is authorized to prescribe such rules and regulations, to conduct such examinations, and investigations, and to require the keeping of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this Act. Within 180 days of the general election, the Board shall conduct a complete examination and audit of the expenditures made, expenses incurred, and financial assistance received by or on behalf of any candidate who has received assistance under this Act in connection with his primary or general election campaign, and shall furnish to the Congress and the President a report of the results of each such examination and audit.

(d) If the Board determines on the record after an opportunity for a hearing that any portion of the amount transferred out of the Fund to the account of a candidate was in excess of the aggregate amount to which that candidate was entitled under this Act, it shall require the candidate to pay to the Board for covering into the fund an amount equal to such excess less any amounts paid to the Board under section 11 (f). No determination of an overpayment shall be made initially more than one year after the date of such overpayment.

(e) In exercising its authority under this Act, the Board is authorized

(1) to compel the attendance of any person to answer questions under oath relating to the financial matters of any campaign for which transfers have been received from the Fund or relating to any proceeding under Section 14; and

(2) to compel under oath the production for inspection or copying of documents, papers, books, records or other writing relating to the financial matters of any campaign for which transfers have been received from the Fund or relating to any proceeding under Section 14.

Any District Court of the United States within the jurisdiction of which such person is found, or is doing business, shall issue an order, on conditions it deems just, requiring compliance with a valid order of the Board issued under this subsection upon petition by the Board or on a motion to quash by such person.

(f) The Board shall report suspected violations of this Act or any other related statutes to the appropriate law enforcement authority.

ELIGIBILITY FOR ASSISTANCE

SEC. 7. (a) In order to be eligible to receive amounts from the fund, a candidate shall—

(1) file with the Board, at such time and in such manner as it shall require (but not sooner than January 1 of the year in which the election for which he seeks a campaign subsidy is to be held or three months before the primary election for that office, whichever is earlier) a sworn statement in which he agrees

(A) to maintain and make available to the Board such records, books, and other information as the Board may require;

(B) to forfeit to the Fund the security furnished under paragraph (2) if he fails, to receive at least 10 percent of the votes cast in the primary in which he was a candidate, or the votes cast for all candidates in the general election (as the case may be).

(C) to repay into the fund the aggregate amount of transfers made to his account from the fund if he fails to receive at least 5% of the votes cast in the primary in which he was a candidate or the votes cast for all candidates in the general election (as the case may be).

(2) furnish the Board a security deposit in an amount equal to one-fifth of the amount of the subsidy which he is entitled to receive from the Fund in connection with the

election for which he requests assistance (but in no event to be less than $3,000). The security deposit posted under this paragraph is forfeitable to the Board in the event he fails to make a payment required under paragraph (1). A candidate who, having posted security in connection with a party primary election and having won such primary, is the nominee for election of that party, may ask the Board to retain his security in satisfaction of this paragraph for the receipt of subsidies in the general election. The Board shall retain and accept such security for this purpose without any increase being made in the amount of the security.

(3) furnish the Board with evidence satisfactory to the Board that he has qualified under applicable laws for nomination and election to the office which he seeks; and

(4) furnish the Board, in a form prescribed by the Board, a sworn statement of all campaign expenditures made prior to the date of such statement and all contributions received which have been used for campaign expenditures or which remain available for campaign expenditures. The statement shall include the date, amount and nature of each expenditure, the date and amount of each contribution, and the name, address and, in the case of individuals, the occupation of each contributor. The statement shall also list each amount of the personal resources of the candidate which have been used for campaign expenditures or which remain available for campaign expenditures, the date such amount was made available and the source of the amount.

(5) furnish in a separate statement, with the information required by paragraph (4), all of the contributions and personal resources used to post the security deposit under this section. After the election, if the bond is not forfeited to the Fund pursuant to paragraph (1), the Board shall return to those contributors and sources of personal resources an amount of money equal to their respective contributions.

(b) No candidate shall be eligible to receive transfers to this account from the Fund if he has been convicted of violating any provision of this Act, the Federal Election Campaign Act of 1971, or the Presidential Election Campaign Fund Act.

(c) No candidate shall be eligible to receive transfers to his account from the Fund in connection with his general election campaign unless—

(1) he received such transfers in connection with his primary election campaign.

(2) he was not a candidate for nomination for election in any primary election held for the selection of candidates for election to the office to which he seeks election, or

(d) Any candidate who has received transfers to his account from the Fund in connection with his primary campaign shall be subject to the provisions of this Act, in any general election campaign for the same office, without regard to whether he seeks transfers in connection with the general election.

(e) The Board shall promptly notify any candidate who applies for assistance from the Fund if he is eligible to receive transfers from the Fund, together with a verification of the total amount to which he is entitled in connection with his primary election campaign and the total amount which he would be entitled in connection with his general election campaign, should he be nominated in the primary.

PAYMENTS FROM THE FUND

SEC. 8. (a) Upon application made by a qualified candidate, the Board shall transfer to the bank account designated by the candidate, the amount to which he is entitled from the Fund for payment of his campaign expenses. The amount to which a candidate is entitled shall be transferred in approximately equal installments paid not less frequently than monthly during the period beginning on the date the candidate is notified of his eligibility and ending on the date of the election. Amounts determined under section 10(d) shall be transferred not later than 30 days after the date of the appropriate election.

(b) The Board may, upon demonstration of reasonable need by the candidate under procedures prescribed by the Board, make transfers to the candidate from the Fund in uneven amounts as requested by the candidate.

(c) Prior to receipt of the second, and any subsequent transfers from the Fund to the candidate's account under section 8(a), the candidate shall furnish the Board with a report of all contributions received, all amounts made available from the candidate's personal resources to the campaign, and all expenditures made since the last report. The report shall include the same information regarding each such expenditure, contribution and amount made available from the personal resources of the candidate as is required in the application for subsidies under section 7(a)(4).

(d) If, on the date a candidate for nomination for election to congressional office becomes eligible for transfers from the fund, no other candidate has qualified for that primary under State law, the eligible candidate shall receive in the manner prescribed by subsections (a), (b), and (c), no more than one-third of the subsidy to which he is entitled under section 10. If, at any subsequent time prior to the deadline for filing, another person qualifies under state law to oppose him, then the Board shall transfer, in the same manner, the remaining two-thirds of the subsidy to which the eligible candidate is entitled. No candidate who receives subsidies under this Act, nor anyone acting on his behalf, shall procure the candidacy of another as an opponent.

(e) Whenever the Board determines that amounts remaining in, or available to, the fund will be, or may be expected to be, inadequate to meet obligations arising under this section, it shall—

(1) advise the Congress of its determination, together with a recommendation concerning the amount which must be added to the fund in order to meet fully such obligations during the current fiscal year; and

(2) notify by registered or certified mail each candidate currently entitled to receive transfers from the fund that the amount which is available to him under the provisions of this title may be reduced.

(f) Whenever the Board makes a determination under subsection (c), it shall reduce the amount available for transfer to the account of each candidate by a percentage equal to the percentage obtained by dividing (1) the total amount to which all qualified candidates who have made application at the time of such determination to receive amounts from the Fund are entitled (less any amounts already transferred at such time to such candidates) into (2) the amount remaining in the Fund at the time of such determination. If additional qualified candidates make application thereafter, the Board shall make such further reductions in amounts transferable as it deems necessary to carry out the purposes of this Act. The Board shall notify such candidates by registered mail of the reduced amounts available to them. If, as a result of a reduction under this subsection in the amount available to any candidate, transfers have been made from the Fund to the candidate's account in excess of the amount to which he is entitled, such candidate shall be liable for repayment to the Fund of the excess under such procedures as the Board may prescribe by regulation. If it is necessary to reduce the amount transferable out of the Fund to a candidate's account, the Board shall increase the amounts which that candidate may receive as contributions under section 11 (b), (c), or (d) by an amount equal to the amount of the reduction.

PAYMENTS FROM CANDIDATES ACCOUNTS

SEC. 9. (a) Each candidate making application for the transfer of money from the Fund to his account under section (8) shall establish a single Candidate Campaign Account in a bank insured by the Federal Deposit Insurance Corporation for the sole purposes of receiving transfers from the Fund and private monies received for use in the campaign and for making campaign expenditures.

(b) All payments received from the Fund, and all contributions or personal resources of the candidate to be used for campaign expenditures shall be deposited in the Candidate Campaign Account. Each deposit made in the Account shall be accompanied by a short statement, in the form prescribed by the Board, showing each payment from the Fund, contribution or amount of personal resources deposited, the date each contribution was received and each amount of personal resources was made available, and the name, address and, in the case of individuals, occupation of each contributor and of the source of the personal resources. The statement shall be verified as to the amounts deposited by the depository and then transmitted to the Board within 14 days after the deposit is made. The depository shall furnish to the Board at least every fourteen days a statement of all withdrawals made from the Account.

(c) The candidate shall designate for purposes of this Act by writing, filed with the Board, an individual or individuals (not to exceed three) who shall be authorized, in addition to the candidate, to withdraw funds from the Campaign Account and who each shall share responsibility with the candidate, jointly and individually, for compliance with the provisions of this Act.

(d) No person authorized to make withdrawals from the Candidate Campaign Account shall pay any amount out of that Account for goods, or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe the goods or services furnished to or for the benefit of the candidate, and shall be accompanied by a sworn statement executed by that person certifying that the charges are not in excess of amounts usually charged by him for similar goods and services, and containing such other information as may be required by the Board. Such invoices and statements shall be preserved by the candidate and made available for reasonable inspection by employees of the Board. Copies of the invoices and statements shall be furnished to the Board upon request.

DETERMINATION OF AMOUNTS TRANSFERABLE

SEC. 10 (a) The amount which may be transferred out of the Fund under section 8 to the Account of a major party candidate for nomination for election, or election, to the office of Senator is

(1) in connection with a primary election campaign, the greater of—

(A) 10 cents multiplied by the voting age population of the State from which he seeks to be nominated for election, or

(B) $75,000

(2) in connection with a general election campaign, the greater of—

(A) 15 multiplied by the voting age population of the State from which he seeks election, or

(B) $150,000.

(b)(1) The amount which may be transferred out of the Fund under section 8 of the Account of a major party candidate for nomination for election to the office of Representative, Delegate or Resident Commissioner in connection with his primary election campaign is an amount not in excess of

14 cents multiplied by the voting age population of the district in which he seeks nomination. The amount transferable out of the Fund for the general election campaign expenses of a candidate for election to such office shall not exceed 20 cents multiplied by the voting age population of the district from which he seeks election.

(b)(2) A major party candidate for nomination for election, or for election to the office of Representative in an at-large district for an entire state shall be entitled to receive the same amount which a candidate for Senator from that State would be entitled to receive in connection with the primary election or the general election (as the case may be). An at-large candidate for Representative also is entitled to receive contributions and use personal resources pursuant to section 11 in an amount equal to the amount which a candidate for Senator in that state would be entitled to receive or use in a primary election or a general election (as the case may be).

(c)(1) The amount transferable out of the Fund to the Account of a minor party candidate shall not exceed the greater of—

(A) one-fifth of the amount transferable under section 8 to the Account of a major party candidate for nomination for election, or for election (as the case may be) to the same office, or

(B) an amount which bears the same ratio to the amount transferable under Section 8 to the Account of a major party candidate for the nomination for election, or for election (as the case may be) to the same office as the number of popular votes received by the candidate of that minor party in the preceding general election for that office bears to the number of popular votes received by the candidate of the major party who received the lowest number of votes.

(c)(2) The amount transferable from the Fund to the account of a candidate of any party who fails to qualify as either a major party candidate or a minor party candidate shall not exceed the greater of—

(A) one-tenth of the amount transferrable under section 8 to the account of a major party candidate for nomination for election, or for election (as the case may be) to the same office, or

(B) an amount which bears the same ratio to the amount transferrable under section 8 to the Account of a major party candidate for the nomination for election, or for election, to (as the case may be) to the same office as the number of popular votes received by the candidate of applicant candidate's party in the preceding general election for that office bears to the number of popular votes received by the candidate of the major party who received the lowest number of votes.

(d)(1) A minor party candidate who receives more than 25 percent of the total votes cast for all candidates for nomination for election, or for election, to the office sought by the candidate may have additional amounts transferred out of the Fund for campaign expenses incurred by him in connection with his campaign. The total amount of such additional transfers may not exceed the difference between the amount to which he was entitled as a minor party candidate and the amount to which he would have been entitled had he been a major party candidate, reduced by the amount, if any, of contributions he received in accordance with section 11(f) which is in excess of the amount of contributions he could have received as a major party candidate under subsection (d) or (e) of section 11.

(2) A candidate who does not qualify as a major party candidate or as a minor party candidate, but who receives 10 percent or more (but less than 25 percent) of the total votes cast for all candidates for nomination for election, or for election, to the office sought by that candidate may have amounts transferred out of the fund to his account in an amount equal to the amount to which he would have been entitled had he been a minor party candidate. If such a candidate receives 25 percent or more of the total votes so cast, he may have amounts transferred out of the fund in an amount equal to the amount to which he would have been entitled had he been considered a major party candidate.

(3) No amount shall be transferred under this subsection to the account of any candidate in excess of the amount by which that candidate's outstanding campaign debts exceed the campaign funds available to that candidate other than under this subsection.

(e) The amount which may be transferred out of the Fund under section 8 to the account of a candidate who is a candidate in a runoff election shall be an amount equal to the amount which was transferable to his account in connection with his campaign preceding the election which made the runoff election necessary, except that the determination of whether he is a major party candidate or a minor party candidate shall be based upon the percentage of the vote received by him in that election.

(f) No amount in excess of 30 percent of the amount transferred from the Fund to a candidate's account for a particular election campaign shall be payable as salary, or reimbursement of personal expenses, to all persons employed by or on behalf of that candidate for purposes of that campaign.

(g) For the purpose of determining the amount which is transferable from the Fund for any candidate who seeks nomination for election or election to the House of Representatives from a district which has been established or whose boundaries have been altered since the next preceding general election for such office, the calculation of such amount shall be made by the Secretary based upon the number of votes cast in the next preceding general election for such office by voters residing within the area encompassed by the new or altered district.

(h) The amount made available from the Fund for the payment of campaign expenses incurred in connection with a primary election campaign may not be expended for any debt incurred after the date on which such election is held. No amount made available for the payment of campaign expenses incurred in connection with a general election campaign may be expended for any debt incurred in connection with a primary election campaign.

(j)(1) (for the purpose of paragraph (2)):

(A) The term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) compiled monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1970.

"(2) At the beginning of each calendar year (commencing in 1974), as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Attorney General and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under this section and section 11 shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

LIMITATIONS ON NON-FUND

SEC. 11. (a) Any candidate who receives transfers out of the Fund under section 8 to his account shall be entitled to receive contributions and utilize personal resources for his campaign, subject to the limitations set forth in this section.

(b) In the case of a major party candidate for nomination for election, or for election, to the office of United States Senator who receives a transfer from the Fund, the candidate may, in addition, receive contributions and utilize personal resources which, in the aggregate, do not exceed the following amounts—

(1) in connection with a primary election campaign, the greater of—

(A) 2 cents multiplied by the voting age population of the State from which he seeks to be nominated for election, or

(B) an amount which, when added to the amount transferable out of the Fund for his primary election campaign expenses, totals $100,000; and

(2) in connection with a general election campaign, the greater of—

(A) 5 cents multiplied by the voting age population of the State from which he seeks election, or

(B) an amount which, when added to the amount transferable out of the Fund for his general election campaign expenses, totals $200,000.

(c) In the case of a major party candidate for nomination for election, or election, as United States Representative, Delegate, or Resident Commissioner who receives a transfer from the Fund, the candidate may, in addition, receive contributions and utilize personal resources which, in the aggregate do not exceed—

(1) 3 cents multiplied by the voting age population of the district from which he seeks nomination for election, in a primary election campaign, and

(2) 5 cents multiplied by the voting age population of the district from which he seeks election, in a general election campaign.

(d) Any other candidate who has a transfer made out of the Fund to his campaign account may receive contributions, in addition to any such transfers made out of the Fund, in an amount which, when added to the total amount transferable out of the Fund for use in his campaign equals the total amount (including transfers from the Fund, and the permitted amount of contributions and personal resources) available to a major party candidate in connection with his campaign for the same office.

(e) Funds obtained by a candidate in accordance with the provisions of subsection (b), (c), or (d) in connection with a primary election campaign which are not needed for the payment of primary election campaign expenses may be used to defray general election campaign expenses, but only if the amount of funds so used has been offset by the Board in determining the total amount of additional funds which may be obtained by contribution for the payment of general election campaign expenses so that the total amount of such funds available for expenditure in connection with the candidate's general election campaign is not in excess of the applicable limitation. Funds obtained by a candidate in accordance with the provisions of such subsections which are not needed for the payment of campaign expenses shall be paid to the Board for covering into the Fund within 120 days after.

LIMITATIONS ON INDIVIDUAL CONTRIBUTIONS

SEC. 12. (a) No candidate who has amounts transferred from the Fund in connection with his campaign (or, who, because of the application of section 8(c), fails to receive amounts to which he is otherwise entitled) shall—

(1) receive contributions from any person in connection with his primary election campaign, his general election campaign or the posting of security under section 7(a)(2) which, in the aggregate, exceed $250.

(2) raise additional private funds from his personal resources for use in connection with his primary election campaign, or his general election campaign which, in the aggregate, exceed $250

(3) raise additional private funds from his

personal resources for use in connection with the posting of security under section 7(a)(2) which, in the aggregate, exceed $250

(b) No person shall make contributions to any candidate receiving assistance under this Act which, in the aggregate, exceed the limitations imposed by this section.

(c) In the event that a candidate, his agent or political committees receive a contribution in violation of this section or a contribution which, in conjunction with other contributions received exceeds the maximum amount of contributions that candidate is permitted to receive under section 13, such contribution excess portion thereof shall be returned to the donor or paid to the Board for covering into the Fund pursuant to subsection (f) of this section.

(d) No person shall make a contribution to a candidate for nomination for the election, or for the election to Congressional office in the name of another person, and no person shall knowingly accept such a contribution.

(e) The limitations of this section shall apply to any contribution within the campaign expenditure period and any contribution made prior to such period which is used for campaign expenditures.

(f) Contributions permitted each person under this section may not be made under any pooling arrangement or any other formal or informal arrangement for combining such contributions. The preceding sentence shall apply to contributions not counted in determining compliance with sections 11 and 13 by reason of subsection 13(b).

LIMITATIONS ON CAMPAIGN EXPENDITURES

SEC. 13 (a) No candidate who receives transfers from the Fund to his account in connection with any election campaign may make campaign expenditures in connection with that campaign in excess of the sum of (1) the amount transferred to his account under section 8 and (2) the amount of contributions he may receive and personal resources he may utilize under section 11.

(b) For purposes of this section and section 11, contributions and expenditures shall not be included in determining compliance with the limitations imposed if such amounts are expended as contributions within the meaning of section 3(7)(E) and the independent activity is undertaken unilaterally by the contributor and not at the request or suggestion of the candidate, his agents or political committees nor in cooperation with them.

POLITICAL PARTY CAMPAIGN FUND ASSISTANCE

SEC. 14. (a) The national committee of a political party and the central committee in each State of a political party may, in addition to the contribution permitted any "person" under section 12, underwrite all or a portion of the private campaign financing permitted candidates governed by this Act in accordance with the provisions of this section.

(b) The national committee or central State committee shall establish a party campaign account for the purpose of receiving contributions for distribution to congressional candidates of its party in the general election who receive any transfers from the Fund under this Act.

(c) The national or central State committee shall open a single bank account as its party campaign account and register the account with the Board.

(d) No moneys shall be deposited in a party campaign account except individual contributions made expressly to such account, and no person may make contributions to any one such account which, in the aggregate, exceed $250. No such contribution shall be earmarked, expressly or by informal arrangement, for a particular candidate.

(e) Each deposit made in the account shall be accompanied by a short statement, in the form prescribed by the Board, showing the amount and date of each contribution included in that deposit, and the name, address, and in the case of individuals, occupation of the contributor. Such statement shall be verified by the depository as to the amount deposited, to be then transmitted to the Board within one month after the deposit is made. The depository shall furnish to the Board at least monthly a statement of all withdrawals made from the account and the payee of each withdrawal.

(f) The treasurer of the committee establishing the account shall be the only person authorized to make withdrawals from the account. Payments may only be made from the Account—

(1) in the case of an Account established by a State central committee, to the candidate campaign account of a candidate of that party for election to congressional office from that State, and

(2) in the case of an Account established by a national committee, to the candidate campaign account of a candidate of that party for election to congressional office.

(g) The amount transferrable from any party campaign account to a candidate campaign account shall not be in excess of the total amount of private contributions the candidate is permitted to receive under section 11, and any amounts transferred shall be counted with other contributions in determining compliance with that section.

(h) The contributions permitted under this section shall be in addition to the amount of contribution which a person may make under section 12 of this Act.

ENFORCEMENT AGAINST VIOLATIONS

SEC. 15. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any acts or practices which constitute or will constitute a violation of any provisions of this Act or any regulation or order issued thereunder.

(b) Any person who believes a violation of this Act has occurred may file a complaint with the Board. If the Board determines there is reason to believe such a violation has occurred, it shall expeditiously make an investigation, which shall also include an investigation of the campaign finances of the complainant if he is a candidate of the matter complained of.

(c) Whenever a charge is filed—

(1) by the Board, or

(2) by or on behalf of a person claiming to be aggrieved, the Board shall serve notice of the charge (including the specific nature of the alleged violation) on such person expeditiously and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Board requires. The Board shall make a determination on reasonable cause expeditiously and so far as practicable not later than ten days from the filing of the charge.

(d) Whenever in the judgment of the Board there is reasonable cause to believe any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act or any regulation or order issued thereunder, the Board shall hold a public hearing after affording due notice and an opportunity for a hearing by all parties, including the complainant and promptly issue its findings and an appropriate order.

(e) If the respondent fails to comply with the findings and order of the Board, the Board shall bring a civil action against any respondent named in the charge. The person or persons aggrieved by the violation shall have the right to intervene in a civil action brought by the Board. If a charge filed with the Board pursuant to subsection (b) is dismissed by the Board, if within ten days from the filing of such charge, the Board has not held a public hearing on such charge, or if within five days from the date of issuance of an order pursuant to subsection (d) the Board has not filed a civil action under this section and the violation has not been corrected, a civil action may be brought against the respondent named in the charge or against the Board (A) by the person aggrieved.

REVIEW OF BOARD DETERMINATIONS

SEC. 16. (a) Any candidate for nomination for election or for election to congressional office who is aggrieved by—

(1) a determination of ineligibility under Section 7(d) to receive transfers from the Fund;

(2) the determination by the Board of the candidate's participation in the operable to receive; or

(3) any other determination, action or failure to act by the Board with respect to the candidate's participation in the operation of this Act may petition the Board for a prompt hearing on its determination, action or failure to act.

(b) The Board shall order such a hearing held on the record, with the opportunity to be heard and present evidence, expeditiously and at a location reasonably convenient to the candidate.

(c) If, after the hearing on the petition, the Board does not reverse or revise its determination, action or failure to act, and the petitioner remains aggrieved, he may bring a civil action for judicial review of the matter.

JURISDICTION OF DISTRICT COURTS

SEC. 17. (a) Each United States district court shall have jurisdiction of actions brought under this Act. Such action may be brought in the U.S. district court for the District of Columbia, in the U.S. district court for the judicial district in the State in which the unlawful action or practice is alleged to have been committed, or in the U.S. district court for judicial district in which the candidate who has or may benefit from the action of the respondent is running for federal elective office.

(b) In any action brought under this Act the summons and subpenas for witnesses may run into any other district.

(c) Any action (or appeal therefrom) brought under this Act shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this Act), to the greatest possible extent.

SEC. 18(a). Penalties. A willful violation of the contribution or expenditure limits imposed by sections 12(a), 12(c) and 13, or a willful misuse of any transfers received from the Fund, or a willful falsification of any record or statement required to be submitted or retained by the candidate under this Act shall be punishable by a fine of not less than $5,000, nor more than $50,000 or the total amount of transfers received from the Fund whichever is greater, and not less than six months nor more than five years' imprisonment.

(b) Violation of any other provision of this Act, or of any rule or regulation promulgated by the Board under this Act, shall be punishable by a fine of not more than $10,000, or imprisonment for not more than one year, or both.

(c) Except in prosecutions for willful falsification of records or statements under subsection (a), no evidence obtained from any record, statement or application required to be kept or submitted by a natural person by this Act shall be used, directly or indirectly, as evidence in a criminal proceeding, against that person with respect to a violation occurring prior to or concurrently with the filing of such statement or application or the making of such record.

SEC. 19. State Laws Not Affected. Nothing in this Act shall be considered to invalidate or make inapplicable any provision of any state law, except where compliance with that

provision of law would result in a violation of a provision of this Act.

SEC. 20. Relationship To Other Federal Election Laws. (a) The Board shall consult from time to time with the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives, the Federal Communication Commission and with other Federal officers charged with the administration of laws relating to Federal elections, in order to develop as much consistency and coordination with the administration of such other laws as the provisions of this Act permit. The Board shall use the same or comparable data as that used in the administration of such other laws whenever possible.

(b) (1) Section 301(e) of the Federal Election Campaign Reform Act of 1971 is amended by—

(A) striking "and" at the end of paragraph (4); and

(B) redesignating paragraph (5) as (6), and inserting after paragraph (4) the following new paragraph:

"(5) a transfer of funds to a candidate's account made out of the Congressional Campaign Assistance Fund under section 8 of the Congressional Election Finance Act of 1973; and".

(2) Section 301(f) of the Federal Election Campaign Reform Act of 1971 is amended by—

(A) striking "and" at the end of paragraph (2);

(B) inserting "and" after the semicolon in paragraph (3); and

(C) inserting at the end of subsection (f) the following new paragraph:

"(4) a payment of campaign expenses made out of amounts received from the Congressional Campaign Assistance Fund under section 8 of the Congressional Election Finance Act of 1973;".

SEPARABILITY

SEC. 21. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the application of that provision to other persons and circumstances shall not be affected by that holding.

AUTHORIZATION OF APPROPRIATIONS

SEC. 22. (a) There are authorized to be appropriated to the fund such amounts, in addition to the amount initially appropriated under section 4, as may be necessary to carry out the operations of the fund.

(b) There are authorized to be appropriated to the Board such sums as may be necessary to carry out the other provisions of this Act.

EXHIBIT 2

CONGRESSIONAL ELECTION FINANCE ACT OF 1972—SUMMARY OF THE ACT

I. BASIC APPROACH

The major purpose is to permit "serious" candidates for Senator or Representative to run without reliance on private contributions, if they so desire.

It is also hoped that, over time, the very fact that one candidate runs on public money while his opponent is running on large private contributions will itself become a campaign issue. There should be gradually increasing pressure for candidates to take the public-funding route.

A secondary goal is to show that campaign expenditures have spiraled out of hand; to demonstrate that informative, effective campaigns can be run for less than is often spent today.

Also, while the subsidy is intended to be adequate for a thrifty campaign, some play is given to controlled private financing. For major party candidates this would amount to only one-fifth of their total allowable expenditures. The size of the contributions would be strictly limited. This "hybrid" approach leaves room for the positive political involvement of fund raising. It also eases the problem of giving minor party candidates smaller subsidies. The minor party candidate can be permitted to offset this difference by raising more private funds in such amounts that the total expenditures permitted both minor and major party candidates remains equal. Here, the Act demonstrates a way of eliminating the danger or appearance of undue influence by limiting the amount of individual contributions.

II. OPERATION

The Act would operate as follows:

1. A separate fund is established in the Treasury and a Board is created to administer the Act and to dispense subsidies. It would be a seven-member, bipartisan one, with staggered terms.

2. The Board is given general powers to develop reporting methods and implement the Act with more detailed regulations. *To the greatest extent possible,* the Board is to utilize the reporting, filing and accounting procedures and the information required by the 1971 Campaign Reform Act, in order to eliminate duplication and minimize paper work.

3. The Board has subpoena power, can conduct investigations of possible violations and can seek court injunctive relief. A candidate aggrieved by Board action can seek a prompt hearing and Court review.

4. Candidates "qualify" for subsidies by filing a sworn undertaking to comply with the Act and to pay a penalty if they fail to win 10% of the vote in the election for which the subsidy is received—that is, 10% of all the votes in their party's primary if it is a primary subsidy, and 10% of the vote for all candidates if they receive a subsidy for the general elections. If they fail to win even 5% they are liable to repay the full subsidy. These two provisions, would deter frivolous or crank candidates without substantial support.

Second, they file a security deposit which is forfeitable for the payment of this penalty. This security deposit is in the amount of one-fifth of the subsidy they are eligible to receive, with a minimum of $3,000. (See No. 8 for limitations on how this deposit can be raised). However, a successful primary winner can roll over his security and use it for his security in the general election without increasing the amount, even though the general election subsidy is somewhat larger.

Third, they submit proof they have qualified for the ballot under state law.

Fourth, they supply information on contributions and expenditures in connection with their candidacy made prior to that date. Expenditures made in the 18-month period preceding the date of the general election, or before then for goods or services used in that period, and contributions used or still available for such expenditures are covered. This provides a cut-off for determining how far back, before he files, a candidate's private expenditures and contributions will be counted in applying the contribution limits and included in his overall spending limits.[1]

5. The Board notifies eligible candidates. It deposits subsidy installments monthly in a separate account which candidates must set up. The Board may pay the money in uneven amounts upon a reasonable showing by the candidate for such request.

6. The candidate must open a single Campaign Account for the deposit of the subsidy and of all private monies raised. The Board is given periodic reports on all deposits and withdrawals including the source and amount of each contribution. Withdrawals can only be made by the candidate or any of up to three individuals he designates, who *also share legal responsibility* with him for compliance with all provisions of the Act.

Footnotes at end of article.

7. For calculating subsidies, the Act recognizes three categories of candidates: "major party;" "minor party" and all others.

In Senate races, major party candidates get a subsidy of 10¢ per capita (voting age population) in the primary and 15¢ in the general election. In addition they may raise privately 2¢ per capita for the primary and 3¢ for the general election.

In Michigan, that primary subsidy would amount to $587,500; total primary expenditure would be limited to $705,000. In the general election the subsidy would be $880,000; the total expenditure permitted would be $1,050,250.

For House races, the subsidy would be 14¢ per capita in the primary and 20¢ per capita in the general election. In addition, candidates could raise 3¢ per capita for the primary and 5¢ per capita for the general election.

In a "typical" District (with 300,000 voting age population) this would mean a subsidy of $42,000 in the primary with total expenditure of $51,000. In the general election, the subsidy would be $60,000; and the total expenditure permitted would be $75,000. N.B. *Any* candidate who qualifies to run in the primary of a major party is entitled to these levels of subsidy in the primary.

8. The statute makes explicit that the total expenditures a candidate makes in connection with his campaign may not exceed the sum of (a) the subsidy for which he is eligible, and (b) the amount of private funds he is permitted to raise.

9. The following limitations are placed on the amount of any individual contribution or independent activity undertaken to influence the outcome of an election:

A. A "person" includes any individual, corporation, partnership, or association, etc. Its definition would include unions.

B. "Contribution" is broadly defined *to include* (1) any gift, loan or guarantee of money or anything of value, (2) payment of compensation for personal services which are rendered to the candidate or payment for goods used by the candidate, (3) furnishing goods or services without charge or at less than the usual rate, or, (4) expenditures made in any other activity undertaken independently of the candidate's campaign to promote his candidacy or oppose other candidates. The definition of "contribution *does not* include: (1) personal services provided without compensation by individual volunteers, (2) internal communications by an organization solely[2] to its membership and their families, (3) communications to the general public by an organization which is solely an issue-oriented group, where the communication neither endorses nor opposes particular candidates, and (4) normal billing credit not exceeding 30 days.

C. For purposes of the limit imposed on the amount of contribution from any single source, all contributions—and also the candidate's use of his own and his immediate family personal resources—are treated the same. No "person," whether an individual or organization can contribute in any way, and no candidate or his agent can accept amounts which, in the aggregate exceed $250. Contributions made for use in posting the security deposit, for use in the primary or the general election campaign, and "contributions" in the form of expenditures undertaken independently of the candidate's campaign are cumulative. No person can give, in any of these forms combined, more than $250 to a candidate.

D. Similarly, a candidate's own resources and those of his immediate family cannot in the aggregate (that is, combining amounts from the candidate's own funds, from his children or a sibling, etc.) exceed $250 for his primary and general election campaigns combined. However, he is allowed to use an additional $250 for the security deposit.

E. However, for purposes of the limit on the total private funding, a candidate may use, two types of contributions are not counted. First, the amount posted for security—since it cannot be used in the campaign—is not included.

Second, "contributions" in the form of expenditures for independent activity on behalf of a candidate (as opposed to resources in some form or other put at the campaign's disposal) which are not undertaken at the suggestion or request of the candidate are also excluded. (Although as just noted above, they *are* covered by the limit on individual contributions, and for that purpose are cumulative with amounts turned over to the campaign.)

There is an anti-pooling provision, so that an organiztaion which itself is limited to $250 worth of independent activity, could not also arrange for all its members to expend the $300 permitted each of them for independent activity as a fractional payment of, say, an expensive broadcast. To permit that would, in effect, permit the organization to swing the same clout as if it had collected voluntary payments and then purchased a $60,000 spot advertisement as its own independent activity.[3]

10. In addition to limitations on private individuals and organizations, there is a special provision for fund-raising by political parties. In their case, the premise is that because they are a part of the essential political process itself, they may serve as a pooling mechanism for private resources without our worrying about their having undue influence on their party's candidate. This provision is limited to campaign assistance in the general election only. National and state party committees must each set up a single bank account for this purpose, which shall be audited by the Board, as are the candidates' campaign accounts. No funds can be transferred to it from general party coffers. The party may only deposit in this account contributions from individuals or other organizations in an amount not exceeding $100 per person or organization. From this account the national or state level party committee may, in their discretion, contribute to their nominees for the House or Senate in varying amounts for each, up to the total of private funds each candidate is permitted to use in that election. Such funds are included in his over-all expenditures.[4]

In other words, in the case of parties, the limit is put on the intake side; no one can contribute more than $250 to these special party Congressional campaign accounts. Hence, they cannot be used as a funnel for a wealthy individual nor can the contributions be earmarked for a particular candidate. On the other end, the party can give the candidate more than the individual contribution limits placed on direct givers. Senator Hart could get the entire $200,000 permitted him in private funds from the Michigan or National Democratic parties. In the case of other organizations, this bill imposes no limit on the amount which members may give to the organization's political fund, but that organization, in turn, may only make the amount of contribution to a candidate permitted any individual contributor.

11. A "major party" candidate is one whose party won 25% of the vote in a "determining" election (the election used by the Act for the party's track record).

12. A minor party is one which won between 10% and 25% of the vote in any "determining" election. A minor party candidate is entitled to a minimum subsidy of one-fifth the subsidy given a major party candidate. He can receive a greater subsidy based on the ratio of the vote his party received in the last general election for that office to the votes received by the major party candidate with the lowest vote in that election.

13. Any candidate not qualifying as either a major or a minor party candidate would receive a minimum subsidy equal to 1/10th of the subsidy given a major party candidate. He too could receive a greater amount based on a ratio of his party's vote in the last general election for that office to the votes obtained by the major party candidate with the lowest vote in that general election.

14. However, the difference in the subsidy given to major party candidates and other candidates is mitigated by three provisions:

First, minor party candidates may raise proportionately more private funds, as indicated above, so that the total resources each may expend remains equal.

Second, if the minor party candidate's showing in the election in question is of major party proportions—25% of the vote—then he is entitled to a post-election supplement increasing his subsidy after-the-fact to the extent he has outstanding campaign debts.

Third, the candidate can invoke any one of several "determining elections" to establish major party status. A House candidate could rely upon whichever was his party's best showing among the last House race in that District, or the statewide vote in the last gubernatorial campaign or the nationwide vote in the last presidential campaign. A Senate candidate could use either of the last two.

14. Participation is all or nothing. If someone receives subsidies in a primary, he must remain under the Act and is limited in the amount of private funds he can use in the general election. Conversely, if he has operated outside of this Act in the primary, he is ineligible for subsidies in the general election.

15. There are various safeguards to promote compliance. Prior to receiving his second and subsequent subsidy installments, the candidate must make available to the Board an account of his contributions and expenditures since the previous report. (But remember the Board shall utilize, to the extent possible, information in the form supplied under the 1971 Act). In addition, the Board requires keeping records available and does a complete audit of each candidate's campaign financing after the election. Punishment for violation in four instances—willful violation of the expenditure or the contribution limits, willful misuse of subsidy funds, or willful falsification of information—can be a fine up to the full amount of the subsidy received, and up to five years in jail. Other violations could receive a fine not to exceed $10,000 and a jail sentence of no more than three years.

FOOTNOTES

[1] For a November, 1974 election, the period runs back to May 6, 1973. If a Senate candidate files for subsidies on January, 1974, he lists expenditures made since May 6, 1973, or more before then for goods or services to be used in connection with the campaign after May 6. He also must list contributions made since May 6, 1973, and contributions made before then which were used or are still available for such expenditures.

[2] A broadcast to the general public put on or paid for by a business organization or union would not be exempt.

[3] The bill was prepared with First Amendment consideration in mind. Nonetheless, to prohibit a direct contribution for a $60,000 T.V. spot because of the danger of undue influence, but then to permit the supporter to decide on its own to purchase the time and put no such an ad is to exalt form over substance. Putting limits on the amount of independent activity anyone may undertake. but not including that expediture in the candidate's limit on private financing in his campaign seems the best compromise to meet competing considerations. It controls the influence of any group or person. It avoids the dilemna of either giving the candidate a veto power over such independent activity (as is the case under the current election law) or putting the candidate at the mercy of whomever carries on such independent activity, even if he would rather use the amount of private financing he is permitted in other ways. Thus, it preserves to everyone *some* right of political expression which they can undertake independently, regardless of whether the candidate has already used the amount of private funds he is permitted and regardless of whether the expression they wish to make on the candidate's behalf "fits in" with is campaign plans.

[4] All of these provisions apply only to party financing of candidates subsidized under this bill.

EXHIBIT 3

SECTION-BY-SECTION ANALYSIS OF CONGRESSIONAL ELECTION FINANCE ACT OF 1973

Section 1. *Title.*

Section 2. *Purposes:*

To provide adequate financing for candidates without regard to the private resources available to them;

To prevent undue influence by the wealthy and the opportunity for such influence which diminishes public faith in the political system;

To determine the degree to which present campaign expenditures are excessive;

To reduce pressures on candidates to become beholden to large contributors.

Section 3. *Definitions.*

"Board"—The Congressional Election Finance Board which administers this Act.

"Campaign Expenditure" and "Campaign Expenditure Period"—The 18-month period preceding the date of the general election for the office sought is the expenditure period. Any expenditure in connection with the campaign made during that period or prior to it for goods or services to be used within the period is a campaign expenditure.

"Candidate"—someone qualifying under state law for the primary or the general election ballot in a House or Senate race.

"Candidate Campaign Account"—is a single bank account into which the candidate must deposit all subsidies and contributions.

"Congressional Office"—the office of Senator, Representative, Resident Commissioner or Delegate.

"Contribution"—is defined to include any:

(1) payment, gift, loan or guaranty to a candidate's campaign;

(2) payment for personal services rendered to the campaign;

(3) payment for any other services or any goods provided to the campaign;

(4) provision of goods or services at less than full value to the campaign;

(5) independent activity carried on apart from the campaign

made for the purposes of influencing the results of a primary or general election. Categories 1 through 4 cover alternative ways of putting campaign resources at the disposal and discretion of the candidate and his assistants. Category 5 covers campaigning done unilaterally on behalf of the candidate. All five categories are treated the same for purposes of individual contribution limits, and they are all aggregated for that purpose. However, category 5 is treated differently in computing the candidate's permitted amount of private financing beyond the subsidy. (See sections 12 and 13, *infra.*)

Volunteer services, internal communications by an organization to its members communications by and issue group to the general public which do not endorse or oppose specific candidates, and normal billing credit not more than 30 days, are all excluded from the definition of contributions.

"Fund"—the campaign subsidy fund established in the Treasury and administered by the Board.

"Major Party"—a party (or independent candidate) receiving at least a quarter of the vote in any "determining election."

"Minor Party"—a party or independent candidate receiving between 25% and 10% of the total vote cast for that office in any "determining election."

"Determining Election"—in a House race, either the last general election for that office *OR* the last gubernatorial race in that state *OR* the last presidential election. The party candidates in a primary or general election can invoke the party's showing in any one of these three previous elections with regard to House races; either the previous presidential or gubernatorial race can be used to establish major or minor party status in a Senate race.

Thus in a State where the Republican gubernatorial candidate had won at least 25% of the vote in the last election, every Republican candidate in a primary or general election for a House seat from that State would be entitled to receive major party level funding, even though the Republican candidate had not won 25% of the vote in the House race in a particular district in the previous election.

"Party Campaign Account"—a single bank account established by the national committee or a state central committee of a political party for receiving contributions to aid subsidized Congressional candidates.

"Person"—an individual, any form of business association, other organization or group of individuals lawfully entitled to make campaign contributions. An organization and parent, subsidiaries, affiliates and regional branches constitute one "person."

"Personal resources"—funds from the candidate and his immediate family.

"Immediate family"—parents, children, siblings, dependents, spouse, and in-laws.

"State"—D.C., Guam, Puerto Rico, the Virgin Islands and the fifty States. This and other provisions indicate that candidates for Delegate or Resident Commissioner are treated the same as House candidates.

"Voting age population"—the resident population 18 years or older of a State or district, to be certified annually by the Department of Commerce.

Section 4. *Establishing the fund.*

This section tries to make adequate funding available without locking in the Appropriations Committees to its expenditure.

The authorizing legislation, itself, establishes a sizeable fund in the Treasury. However, its transmittal to candidates requires further appropriation legislation.

Section 5. *Establishment of the Board.*

A seven member bipartisan commission is created with staggered six year terms. Members elect a chairman to serve for two years, and the first chairman appoints the staff. Three members comprise a quorum. All members have the status of Executive Schedule Level III, which is the one held by the chairmen of regulatory commissions. The Board makes annual fiscal and operational reports to Congress and to the President.

Section 6. *Board duties and powers.*

Subsection (a) requires the Board to develop appropriate forms, bookkeeping and reporting methods, and a filing and retrieval system. The Board must preserve reports filed with it and keep them available for public inspection.

Subsection (b) directs the Board to consult with the Senate Secretary, the House Clerk, and the Comptroller General in order to utilize *to the greatest extent possible* the reporting filing and accounting procedures used to comply with the 1971 Campaign Reform Act of 1971. The subsection expressly provides that if possible the Board shall utilize the reports furnished under the 1971 Act and not require additional filings. It might merely obtain copies of such filings from the officers administering the 1971 Act. This eliminates duplication, minimizes paperwork and permits the public and media to familiarize themselves with only one basic reporting system for Senate and for House races.

Subsection (c) directs the Board to conduct a final audit of all subsidized campaigns and report the results. It also authorizes the Board to issue rules and regulations, to require reports and records and to conduct interim reviews. Subsection (d) requires a hearing before any determination that a candidate has received more money from the fund than he was entitled to and must repay it. The same is true with regard to a proceeding for forfeiture of security. The statute of limitations on recouping overpayment is one year.

Subsection (e) give the Board subpoena power.

Subsection (f) directs the Board to report violations to law enforcement authorities.

Sections 7–14—Sections 7 through 14 set forth the basic financing scheme: Section 7 prescribes how one qualifies for subsidy. Section 8 provides the mechanism for payment from the fund. Section 9 prescribes how the candidate may make payments from his separate candidate account. Section 10 states the formula for determining the subsidy to which each candidate is entitled. Section 11 sets the limits on the private monies which can be added to the subsidy. Section 12 limits individual contributions. Section 13 indicates expressly that the amount a candidate may spend equals the sum of this subsidy and the private funds he is permitted to raise. Section 14 provides a special mechanism for larger amounts of aid from political parties. The specific operation and interaction of these sections are as follows:

Section 7. *Eligibility for Assistance.*

Subsection (a) requires filing a sworn statement, a security bond equal to one-fifth of the subsidy to which he is entitled and proof of qualification for the ballot under State law. The statement obligates the candidate to compile the records and reports required and to repay all amounts received from the Fund in excess of that to which he is entitled. He also agrees to forfeit his security if he fails to receive 10% of the vote in the election for which he is receiving assistance. (That is, 10% of all votes cast in his party's primary, or 10% of the vote cast for all candidates in a general election, as the case may be) and to be personally liable for the repayment of all of the subsidies he has received if his vote falls below 5%. A separate sworn statement details the source and amount of contributions received and the campaign expenditures made prior to the date of the application. The candidate must list separately such information for all contributions used to post the security deposit. If the deposit is not forfeited, the Board returns those contributions to the donors.

Subsection (b) prohibits candidates who have previously failed to comply with the Act from receiving further subsidies.

Subsection (c) prohibits candidates from using unrestricted private funding in the primary, i.e., not coming under this Act, and then receiving subsidies in the general election. He must have either received primary subsidies, or not run in a primary, or have been ineligible because he ran unopposed in his party's primary.

Subsection (d) prohibits candidates receiving primary assistance from then running in the general election outside this Act, i.e., with no restriction on private assistance.

Subsection (e) requires prompt notification by the Board that a candidate has qualified and of the amount to which he will be entitled in the primary, and if he is nominated, in the general election.

Section 8. *Payments from the Fund.*

Subsection (a) provides for payment of the subsidy by the Board in approximately equal amounts monthly into an earmarked account in an FDIC bank, during the period beginning at the time of notification of eligibility. Post-election supplements are paid within 30 days of the election.

Subsection (b) provides for payments in unequal amounts upon request and a justification by the candidate.

Subsection (c) provides that, at the time a primary candidate becomes eligible to receive transfers from the Fund, if no other candidate has qualified under state law, the applicant shall initially receive only one-third of the subsidy for which he is eligible in such installments. If prior to the filing deadline, at least one other candidate qualifies under state law, then the Board shall transfer the remaining two-thirds of the applicant's primary subsidy in similar installments.

Subsection (d) requires the Board, if it determines there are insufficient monies in the Fund, to pay each candidate the appropriate subsidy, to so advise the candidates and the Congress with recommendation to the latter of the necessary supplemental appropriation.

Subsection (e) requires the Board in such cases to reduce pro rata the subsidy to each candidate and notify them of the reduction by registered mail. However, the amount which a candidate would then be permitted to raise privately under section 11 would be increased by an amount equal to the reduction in subsidy.

Section 9. *Payment from the Candidate's Account*

Subsection (a) and (b) require the candidate to establish a single campaign account and to deposit therein all subsidies and contributions received. The Board receives statements identifying the amount and source of all contributions deposited and indicating all withdrawals.

Subsection (b) limits the power to withdraw from this account to the candidate and, at most, three other individuals he designates who also each are responsible for compliance with all provisions of the Act.

Subsection (d) prohibits payment, except staff salaries, for any goods or services without an invoice from the payee and a sworn statement certifying the charges are normal and certification shall be preserved by the candidates for inspection and copies shall be furnished upon request to the Board.

Section 10. *Determination of Amounts Payable.*

The amounts are calculated under a formula of so many cents per voting age resident of the State or House district in question. Subsection (a) provides that a major party primary candidate for Senate nomination would receive the greater of:

10¢ multiplied by the voting age population, or

$75,000

and that a major party candidate in a general Senate election would receive the greater of

15¢ multiplied by the voting age population, or

$150,000

Subsection (b) provides that a major party candidate for nomination to a House seat would receive 14¢ multiplied by the voting age population; a House candidate of major party in the general election would receive 20¢ multiplied by the voting age population.

Since the voting age resident population of most House districts clusters around 300,000 this would mean a typical subsidy of $42,000 in a House primary and a $60,000 subsidy in a general election. A candidate for an at-large House district receives the same subsidies as a Senate candidate from that State.

Subsection (c) provides that a minor party candidate would receive 20% of the amount of subsidy to which the corresponding major party candidate would be entitled under

subsections (a) and (b). All other candidates who qualified under State law to be on the ballot would receive a subsidy equal to 10% of the amount for major party candidates.

Subsection (d) provides a post-election "bonus" if a minor party candidate's performance in the instant election is of major party proportions—25% or more of the vote. The extra money would be payable, however, only to the extent the minor party candidate had valid campaign debts outstanding; the bonus would not be available simply for the party's general coffers.

Subsection (d)(2) provides for bonuses to candidates who did not even qualify for minor party status before the election. If their actual showing is 10% they are entitled to a bonus bringing the level of their subsidy up to that of a minor party candidate. If they win 25% of the vote they are entitled to a bonus bringing their total subsidy up to the level of major party candidates. In each case the bonus is subject to the same setoff and valid debt limitations applicable to bonuses for minor party candidates.

Subsection (e) provides for funding in runoff elections. The subsidy shall equal the amount available for the election which precipitated the runoff. However, the determination of whether a candidate has major or minor party satus for calculating his subsidy in the runoff shall be based on the vote he received in the precipitating election.

Subsection (f) limits the amount of any subsidy which can be used for campaign salaries to 20%.

Subsection (b) provides for determining the subsidy for a candidate in a newly drawn district.

Subsection (h) provides that primary subsidies may not be used after the primary election and that general election subsidies may not be used to retire primary campaign debts.

Subsection (i) provides a cost of living escalator provision for the amount of subsidies and for the amount of private financing each candidate is permitted to raise.

Section 11. *Limitations on Non-Fund Financing.*

Subsection (a) states that a subsidized candidate may also utilize private resources as specified in this section.

Subsection (b) permits a major party Senate candidate to raise privately

2¢ multiplied by the voting age population for the primary (with a $25,000 minimum)

3¢ multiplied by the voting age population in the general (with a $50,000 minimum)

Subsection (c) permits majority party House candidates to raise privately

3¢ multiplied by the voting age population in the primary

5¢ multiplied by the voting age population in the general election

Subsection (d) provides that subject to certain limitations, a minor party candidate can raise private funds such that the sum of the private funding and the subsidy to which he is entitled equals the total funds available to a corresponding major party candidate.

Section 12. Limitation on individual contributions (a) and (b) limit the amount any person may contribute in any manner to an aggregate of $250 per candidate. That is, amounts one makes available for a primary campaign, or for the candidate's general election campaign, or for his posting security to receive subsidies, or on independent activity undertaken to promote his candidacy are all cumulative with regard to these limits. However one spends the $250—or $100 in a House race—he cannot provide more than $250 worth of support.

The candidate, himself, is permitted to contribute the same amounts to his campaign from his own resources (and those of his immediate family). He is also permitted to contribute an additional $250 to raising the necessary security deposit for his subsidy.

Subsection (c) requires that contribution in excess of the limits permitted be returned or covered into the Fund.

Subsection (d) prohibits contributions made in the name of another.

Subsection (e) makes the limitation applicable to any contribution made before the candidate files for subsidies, as long as they were used for "campaign expenditures." (See Definitions, *supra*) or remain available for campaign expenditures.

Subsection (f) prohibits pooling of the contributions permitted each person. N.B. This does not bar an organization from having a voluntary political fund into which its members contribute, although the organization may only give the candidate $250 from its funds, however they are raised. What this subsection *does* bar is an organization itself giving $250 from its funds, and also arranging for a combination of the $250 permitted each of its members as individuals, e.g., arranging for each to pay a $250 portion of the cost of a $1 million television broadcast coordinated by the organization. To permit that would defeat the purpose of the individual limitation on the contributions at the disposal of any single organization.

Section 13. *Limitations on Expenditures.*

Subsection (a) provides that the total expenditures a candidate may utilize in his campaign shall not exceed the sum of the subsidy he may receive under Section 10 and the amount of private funds he may raise under Section 11. This does *not* mean the candidate may take less than the full subsidy to which he is entitled and then raise proportionately more private funds. Section 11 is a firm limit on private financing. Section 12 simply makes explicit the overall limit.

Subsection (b) provides that if the person expends the $250 contribution to which he is limited by section 11, in the form of truly independent activity—made neither at the request nor in cooperation with the candidate's campaign, but on the contributor's unilateral initiative—then such independent expenditures on the candidate's behalf shall not be counted as part of the total private fund raising permitted the candidate. This prevents anyone from wielding undue influence because of large independent expenditures on the candidate's behalf. But it still permits everyone some form of political expression on behalf of candidates whom they favor without having to obtain the approval of the candidate or be excluded from making any such expression once the candidate has spent his limit.

Section 14. *Political Party Campaign Assistance.*

Subsection (a) permits the state central committee or national committee of a political party to underwrite all or a portion of the private financial assistance permitted subsidized candidates.

Subsections (b) and (c) require the national or state committee to establish a single Party Campaign Account for this purpose, registered with and monitored by the Board. Subsection (d) provides that only contributions expressly made to this Account can be used and no other party funds may be transferred to it, but such contributions may not be earmarked for particular candidates. Contributions to this Account are limited to $250 per person.

Subsection (e) requires a record of deposits and withdrawals from Party Campaign Accounts.

Subsection (f) provides that a committee may only aid its party's nominees and only in the general election. A state committee may only aid such candidates in its state.

Subsection (g) states that each committee may give as much as it chooses to any particular candidate, but it may not give more than the total amount of private funds that candidate is permitted to use under this Act, and it may only give a smaller amount to the extent that the candidate chooses also to receive funds from other private sources.

Subsection (h) provides that contributions under this section are permitted in addition to the contribution allowed each person under section 12.

Section 15. *Enforcement Against Violations.*

Subsection (a) empowers the Board to seek to prevent actions in violation of the provisions of the Act.

Subsection (b) permits private persons to file complaints of such violations.

Subsection (c) requires the Board to notify the person charged and to investigate.

Subsection (d) requires the Board to hold a public hearing on the record if it finds probably cause a violation has occurred or is about to occur.

Subsection (e) permits the Board to make findings and issue an appropriate order. If the order is not complied with, the Board may institute a civil action. If the Board fails to act or to order a cessation of a violation, or to institute suit for failure to comply with an order, then the private party who filed the complaint with the Board may institute such a suit.

Section 16. *Review of Board Determinations.*

Subsection (a) permits a candidate who is receiving or has applied for subsidy to appeal Board determinations affecting his right to subsidy or the amount of subsidy, or to challenge the Board's failure to act or any other action.

Subsection (b) requires the Board to review the complaint and hold a prompt hearing.

Subsection (c) permits the aggrieved candidate to seek judicial review, if necessary, of the Board response to his complaint.

Section 17. *Jurisdiction of District Courts.*

Subsection (a) vests jurisdiction in the United States District Courts to hear actions under this Act.

Subsection (b) provides for nationwide service of process in such actions.

Subsection (c) requires that such suits be advanced on the docket to the extent possible.

Section 8. *Penalties.*

Subsection (a) provides that for a willful violation of the individual contribution limitations, or the overall spending limitations, or falsification of information, or misuse of federal subsidies, a person may be punished by a fine of not less than $5,000 nor more than the greater of $50,000 or the full amount of subsidies received, and not less than 6 months nor more than 5 years imprisonment.

Subsection (b) punishes all other violations by a fine of not more than $10,000 or one year's imprisonment, or both.

Subsection (c) then provides that information obtained through such reports and records may only be used, directly or indirectly, in the prosecution of a violation under subsection (a) for falsifying information.

This format is designed to meet a possible constitutional problem of self-incrimination.

Section 19. *State Laws Not Affected.*

This is a general disclaimer of any intent to affect state law except where compliance with state law would constitute a violation of this Act. (It then falls under the Supremacy Clause of the Constitution.)

Section 20. *Relationship to Other Federal Laws.*

This section conforms this bill and prior legislation, particularly requiring a report for purpose of the 1971 Campaign Disclosure Act, of any subsidy received under this Act.

Section 21. *Separability.*

Section 22. *Authorization of Appropriation.*

This section authorizes additional appropriations as needed for subsidies and as needed for administration of this Act.

EXHIBIT 4

AMOUNTS AVAILABLE TO SENATE CANDIDATES UNDER CEFA[1]

State	Primary		General election	
	Primary subsidy (10 cents)	Total primary expenditures (12 cents)	General election subsidy (15 cents)	Total general election expenditures (18 cents)
Alabama	227,000	273,000	341,000	409,000
Alaska	20,000	24,000	30,000	36,000
Arizona	124,000	149,000	186,000	223,000
Arkansas	131,000	157,000	197,000	236,000
California	1,400,000	1,680,000	2,100,000	2,500,000
Colorado	156,000	187,000	234,000	280,000
Connecticut	211,000	253,000	316,000	379,000
Delaware	37,000	45,000	56,000	67,000
District of Columbia	52,000	62,000	78,000	93,000
Florida	511,000	613,000	766,000	919,000
Georgia	310,000	372,000	466,000	559,000
Hawaii	53,000	64,000	80,000	96,000
Idaho	48,000	57,000	72,000	86,000
Illinois	755,000	906,000	1,132,000	1,350,000
Indiana	360,000	421,000	526,000	632,000
Iowa	190,000	229,000	285,000	342,000
Kansas	154,000	185,000	231,000	277,000
Kentucky	221,000	265,000	331,000	397,000
Louisiana	234,000	281,000	351,000	421,000
Maine	67,000	80,000	99,000	120,000
Maryland	269,000	323,000	403,000	484,000
Massachusetts	396,000	475,000	593,000	712,000
Michigan	588,000	705,000	880,000	1,050,000
Minnesota	256,000	307,000	384,000	461,000
Mississippi	140,000	168,000	210,000	253,000
Missouri	327,000	392,000	490,000	588,000
Montana	46,000	55,000	69,000	83,000
Nebraska	102,000	123,000	153,000	184,000
Nevada	35,000	42,000	52,000	63,000
New Hampshire	52,000	63,000	78,000	94,000
New Jersey	503,000	603,000	754,000	905,000
New Mexico	64,000	76,000	95,000	114,000
New York	1,280,000	1,536,000	1,920,000	2,304,000
North Carolina	346,000	416,000	519,000	623,000
North Dakota	40,000	48,000	60,000	72,000
Ohio	719,000	862,000	1,078,000	1,293,000
Oklahoma	181,000	217,000	272,000	326,000
Oregon	150,000	180,000	225,000	270,000
Pennsylvania	816,000	979,000	1,244,000	1,469,000
Rhode Island	67,000	81,000	101,000	121,000
South Carolina	171,000	205,000	256,000	307,000
South Dakota	43,000	52,000	65,000	78,000
Tennessee	271,000	326,000	407,000	488,000
Texas	786,000	922,000	1,152,000	1,383,000
Utah	69,000	83,000	103,000	124,000
Vermont	31,000	37,000	46,000	56,000
Virginia	320,000	384,000	480,000	575,000
Washington	237,000	285,000	356,000	427,000
West Virginia	118,000	142,000	177,000	213,000
Wisconsin	296,000	355,000	443,000	532,000
Wyoming	23,000	27,000	34,000	41,000

[1]Every candidate would be eligible to receive a minimum of $75,000 in the primary and $150,000 in the general election, as subsidy from the fund. In addition, every candidate would be eligible to raise a minimum of $25,000 in private funds in the primary and $50,000 in the general election. Thus, regardless of the figures on the above chart every candidate would have available at least $100,000 to spend in the primary and $200,000 to spend in the general election, whatever the size of his State.

By Mr. HART (for himself, Mr. McGOVERN, Mr. CASE, Mr. MOSS, Mr. PACKWOOD, Mr. RIBICOFF, Mr. STAFFORD, Mr. PELL, Mr. HUMPHREY, Mr. CRANSTON, and Mr. HATHAWAY):

S. 1104. A bill to promote and protect the free flow of interstate commerce without unreasonable damage to the environment; to assure that activities which affect interstate commerce will not unreasonably injure environmental rights; to provide a right of action for relief for protection of the environment from unreasonable infringement by activities which affect interstate commerce and to establish the right of all citizens to the protection, preservation, and enhancement of the environment. Referred to the Committee on Commerce.

Mr. HART. Mr. President, on behalf of myself, Mr. McGOVERN, Mr. CASE, Mr. MOSS, Mr. PACKWOOD, Mr. RIBICOFF, Mr. STAFFORD, Mr. PELL, Mr. HUMPHREY, Mr. CRANSTON, and Mr. HATHAWAY, I introduce the Environmental Protection Act of 1973, a bill to facilitate citizen suits to protect the environment.

The contents of the bill for the most part resemble S. 1032, the Environmental Protection Act of 1972, as it was considered by the Committee on Commerce in the closing days of the 92d Congress. The new bill has been changed to respond to reservations expressed by the committee about S. 1032. In addition, the form and language have been changed considerably to simplify and tighten the proposed legislation. I ask unanimous consent that the text of the bill and the October 12, 1972, Statement of the Committee on Commerce supporting the principles of S. 1032 be printed in the RECORD following the introductory remarks.

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

(See exhibits 1 and 2.)

Mr. HART. Mr. President, the environment is everybody's concern. As the Congress declared in enacting the National Environmental Policy Act several years ago, as to the environment, each of us is a "trustee" for the benefit of future generations. The thrust of the bill introduced today is to enable each of the 205 million such fiduciaries to become a "working trustee." Protection and preservation of the environment is simply too important for us, for our children, and for our children's children to leave it all to be protected by over extended and, in many cases, inertia-ridden bureaucracies. The people must have the power directly to go into Federal court to sue polluters who are violating a Federal agency regulation on environmental protection. Private citizens should additionally have the "standing" to challenge any major decision that significantly affects the environment and could impair environmental quality.

The individual American citizen is a potentially significant resource in the effort to save and enhance the environment. Yet he is a resource that has been insufficiently appreciated and often just plain ignored. Citizens have, of course, been told they can help by going to work in car pools, conserving water, and using white instead of colored tissues; but that is only a part of the solution. Individual citizens have not been adequately shown that they can contribute by gathering evidence to present to agencies, intervening in agency determinations, appealing to the courts from adverse agency actions, and bringing private suits directly against polluters.

Much would be gained by citizens assuming a greater role in legal battles against pollution. Private suits can serve an important publicity function, informing the public of conditions and generating pressure for better and more responsive performance. Such suits can also relieve some of the burdens on government environmental officials. Direct citizen participation would give potential victims of permanent environmental degradation a role in its prevention and, in the process, a greater control over their own futures. As the Senate Commerce Committee report stated last fall:

(T)he committee believes that because of the importance of environmental rights, special review procedures not generally accorded to those protecting other interests ought to be accorded to citizens who seek to protect the environment.

Despite its support for the basic principles of the legislation, the Committee expressed reservations with respect to two of its features. First, it was concerned that S. 1032 had extended the concept of "standing to sue" too far beyond existing law by authorizing "any person" to bring suit under the act. The new bill takes a median position between the extremes on this question, in effect adopting the view of standing expressed by Mr. Justice Blackmun in his dissenting opinion in *Sierra Club* v. *Morton*, 3 ERC 2039 (U.S. Sup. Ct. 1972). Under section 104(a) of the bill:

Suits may be brought under this Act by any person or persons who are adversely affected or aggrieved by the action or activity which is the subject of the suit or who speak knowingly for the environmental values asserted in such suit.

The committee's second reservation reflected its "considerable concern about the prospect of numerous burdensome suits against the same defendant for the same activity arising under this and other similar acts." In response to this concern, the new bill establishes in section 105 a system of actual notice to potential plaintiffs for the purpose of encouraging them to join in the same litigation. In the same vein, such plaintiffs are given an unconditional right to intervene with respect to questions of law and fact in common with the original complaint. As a further safeguard, the act provides in section 104(b) for the consolidation or merging in one lawsuit

in one court of suits brought in different courts against the same defendant.

Mr. President, in reintroducing the Environmental Protection Act, I should point out that the purpose here is actually more basic than that of environmental protection. What is really at issue is the broadening of participation by citizens in the resolution of problems which directly affect them. Both within and outside the environmental movement, we increasingly witness the frustration of those who, while deeply committed on matters of public policy, feel powerless to influence such matters. If commitment of this sort is harnessed in the proper manner, it can be relied upon to alleviate many of society's ills. If it continues to be frustrated, however, both the physical and moral environment of our country may be damaged irreparably. It is my hope that the bill introduced today will in some manner help to shield us from the threat of such damage.

EXHIBIT 1

S. 1104

A bill to promote and protect the free flow of interstate commerce without unreasonable damage to the environment; to assure that activities which affect interstate commerce will not unreasonably injure environmental rights; to provide a right of action for relief for protection of the environment from unreasonable infringement by activities which affect interstate commerce and to establish the right of all citizens to the protection, preservation, and enhancement of the environment

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

TITLE I—GENERAL PROVISIONS

SHORT TITLE AND TABLE OF CONTENTS

SEC. 101. (a) This Act may be cited as the "Environmental Protection Act of 1973".

(b) Table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Procedure.
Sec. 105. Actual notice.
Sec. 106. Limitations.
Sec. 107. Other remedies.
Sec. 108. Effective date.

TITLE II—SUITS TO REVIEW ACTIONS OF FEDERAL AGENCIES

Sec. 201. Applicability.
Sec. 202. Remedy.

TITLE III—SUITS TO ENFORCE AGENCY REGULATIONS AND TO ENJOIN ENVIRONMENTALLY HARMFUL ACTIVITY

Sec. 301. Applicability.
Sec. 302. Remedy.
Sec. 303. Notice.
Sec. 304. Coordination with States.

FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds and declares that each person is entitled by right to the protection and enhancement of environmental quality and that each person has a responsibility to contribute to the protection and enhancement of the environment as a trustee for the benefit of future generations.

(b) The Congress further finds and declares that it is in the public interest to provide each person with an adequate remedy to protect environmental quality from impairment and degradation.

(c) The Congress further finds and declares that hazards to environmental quality are caused largely by persons who are engaged in interstate commerce or in activities which affect interstate commerce.

DEFINITIONS

SEC. 103. As used in this Act—

(1) "Environmental quality" means those aspects of life and those objectives which are delineated in section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect.

(2) "Federal agency" means the executive departments and independent establishments of the United States and corporations primarily acting as instrumentalities of the United States.

(3) "Includes" or "including" should be read as if the phrase "but is not limited to" were also set forth.

(4) "Person" means an individual, partnership, corporation, unincorporated association or organization; or a department, agency, or instrumentality of the United States, a State or political subdivision of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territorial possession of the United States.

PROCEDURE

SEC. 104. (a) Suits may be brought under this Act by any person or persons who are adversely affected or aggrieved by the action or activity which is the subject of the suit or who speak knowingly for the environmental values asserted in such suit.

(b) When two or more actions, at least one of which is brought under this Act and all of which involve the same defendant and a common question of law or fact, are pending in two or more jurisdictions, such pending proceedings, upon application of any party reasonably made to the court of one such jurisdiction, may, if the court so decides, with the concurrence of the courts of the other jurisdictions concerned, after giving due consideration to the convenience of parties and witnesses and the order in which the suits were originally filed, be consolidated for trial by order of such court. The court granting such order of consolidation shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby. Nothing in this subsection shall be construed to preclude consolidation in any case not specifically referred to in this subsection.

(c) Upon clear and convincing evidence offered by any defending party in a suit under this Act that a temporary restraining order or preliminary injunction will result in irreparable damage to such party, the court may condition the issuance of such order or injunction upon the plaintiff or plaintiffs giving security to cover the costs and damages that may be incurred and suffered by such party if relief is wrongly granted. Such security shall not be required if, in the judgment of the court, imposition would unreasonably hinder the plaintiff or plaintiffs in the maintenance of the suit, would tend unreasonably to prevent a full and fair hearing on the action or activity complained of, or would otherwise not be in the public interest. Except as provided in this subsection, no bond shall be required by the court of any plaintiff in a suit under this Act.

(d) In a suit under this Act, the court may appoint a master to take testimony and to make a report. The court or master, as well as the parties to the suit, may subpena expert witnesses and have the assistance of nationwide service of process for the production of records, documents, and other information reasonably necessary for just disposition.

(e) Any suit under this Act shall be supported by the affidavits of not less than two technically qualified persons stating that to the best of their knowledge the action or activity complained of will or reasonably may impair or degrade environmental quality.

(f) The costs of litigation, including reasonable attorney's and expert witness fees, may be apportioned to the parties whenever the court determines that such an award is appropriate.

ACTUAL NOTICE

SEC. 105. (a) The Administrative Office of the United States Courts shall establish an environmental registry under the direction of the Director. The Director shall list the names and addresses of all persons in the United States who request to be listed as persons (1) interested in environmental quality and the protection and preservation of the environment from impairment or degradation; and (2 who wish to receive the notice provided under subsection (b) of this section as to actions pending in one or more geographical regions. The Director shall operate the environmental registry, maintain materials relating to the rights recognized in this Act, and provide for payment of membership fees to cover the cost of the notice provided under subsection (b) of this section.

(b) Upon the filing of the original complaint in a suit under this Act, the clerk of the court in which such suit is filed shall promptly send a copy of the complaint and attached exhibits and affidavits to the Director. Upon receipt, the Director shall promptly send a notice of such pending litigation to each person listed in the environmental registry as of that date. The notice shall state—

(1) the names of the parties to the action;

(2) the date on which the complaint was filed;

(3) the name and address of the court in which the suit is pending;

(4) the allegations in the complaint and the relief requested, in summary form; and

(5) the procedure for obtaining expeditiously a copy of the documents in the suit, including the cost of a reproduction copy. Upon receipt of a copy of an original complaint pursuant to this subsection, the Director shall also cause a copy of such complaint, or a summary thereof, to be published in the Federal Register.

(c) Any person who is entitled to bring a suit under this Act may, in accordance with applicable rules of civil procedure, intervene as of right as a plaintiff in any suit under this Act with respect to any questions of law or fact in common with the original complaint. In deciding the timeliness of applications to intervene, the court shall consider the operation of the notice provisions referred to in subsection (b) of this section and shall ensure that there is adequate opportunity to respond to the notice provided.

(d) The Director shall submit annually to the Congress, together with copies of the annual report required to be submitted under section 604(a)(4) of title 28, United States Code, a statement of the number of actions brought under this Act, the number of such actions dismissed, settled, or brought to trial, and the number of such actions which appear to arise out of the same transaction or occurrence as any previous suit under this Act or any other Federal statute relating to environmental quality.

LIMITATIONS

SEC. 106. (a) No suit may be brought under this Act against the Congress of the United States.

(b) Nothing in this Act shall be construed to affect the specific statutory obligations of any Federal agency or any other person—

(1) to comply with criteria or standards of environmental quality;

(2) to coordinate or consult with any other Federal or State agency; or

(3) to act or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency,

to the extent that such obligations are more protective of environmental quality than those arising under this Act.

OTHER REMEDIES

SEC. 107. Nothing in this Act shall be construed to restrict any right or remedy which a person may have under any other provision of law or at common law, to seek relief or redress to protect himself or environmental quality.

EFFECTIVE DATE

SEC. 108. The provisions of this Act shall be applicable to activity prior to the date of enactment only to the extent that the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) is held by the courts to be applicable to activity conducted prior to the date of enactment of such Act.

TITLE II—SUITS TO REVIEW ACTIONS OF FEDERAL AGENCIES

APPLICABILITY

SEC. 201. (a) A person, on his own behalf or on behalf of other persons similarly situated, may maintain a suit in accordance with this Act for review of an action of a Federal agency, including promulgation or failure to promulgate a rule or regulation, if—

(1) such agency action allegedly constitutes an impairment or degradation of environmental quality under subsection (b);

(2) such agency action allegedly constitutes a major action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4331); and

(3) such suit seeks enhancement of environmental quality through agency action more protective of environmental quality.

(b) An action of a Federal agency constitutes an impairment or degradation of environmental quality if—

(1) with respect to action taken pursuant to the Clean Air Act, as amended (42 U.S.C. 1857), or the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151), the agency action fails to comply with any explicit substantive or procedural requirements for the protection of environmental quality prescribed for agency action in such statute;

(2) with respect to action taken pursuant to any other Federal statute—

(A) such action fails to comply with any explicit substantive or procedural requirements for the protection of environmental quality prescribed for agency action in such statute, or

(B) notwithstanding that such action is consistent with such requirements, to the extent that the agency has discretion in the matter—

(i) the environmental and economic costs of the action exceed the benefits to be derived from such action, or

(ii) the agency fails to select, within the limits of its discretion, an alternative to the action in question which creates less risk of environmental damage, is of comparable social (including environmental) benefit, does not involve unreasonable additional costs, and meets a similar need; or

(3) with respect to any action taken, such action is in violation of a Federal agency standard, order, permit, or other regulation for the protection of environmental quality.

(c) A suit under this title may be brought without regard to the amount in controversy in any district court of the United States in which venue is appropriate under section 1391 of title 28, United States Code: *Provided*, That if such suit concerns a specific agency action under a Federal statute which includes a provision for review of any such action affecting environmental quality under such statute, the suit shall be brought in conformity with the venue requirements and time limitations of such provisions.

REMEDY

SEC. 202. (a) The court shall grant whatever equitable relief is necessary to prevent impairment or degradation of environmental quality, including declaratory judgments and mandatory or prohibitive injunctive relief, upon an affirmative finding with respect to paragraphs (1), (2), and (3) of section 201 (a).

(b) The court is authorized to grant interim equitable relief in suits under this title. Such relief may include relief against any agency pending the completion of agency procedures leading to an agency action or against any person whose activities may be prohibited, controlled, or authorized by such agency action.

(c) The court may refer the parties or remand the action in any suit maintained under this title to the administrative and regulatory procedures provided by other law or regulation. The court shall order such reference or remand upon a finding that expeditious and informed resolution of the action would be advanced by reference or remand in whole or in part. Nothing in this subsection shall be deemed to prevent the granting of interim equitable relief necessary to protect the rights recognized in this Act.

(d) If an action is remanded under subsection (c), the court may direct the agency in question to take additional evidence subject to such terms and conditions as the court may prescribe. The court may also take additional evidence itself in any suit under this title if it determines that the taking of such evidence will most effectively and efficiently protect the rights recognized in this Act.

(e) In a suit under this title any determination of questions of fact by a Federal agency and agency action, findings, and conclusions based on such determination shall be presumed by the court to be correct unless such presumption is rebutted by a preponderance of the evidence.

(f) In a suit under this title, all questions of law shall be determined by the court. There shall be no presumption as to the correctness of agency determinations of questions of law.

(g) Except as otherwise provided or as otherwise required to effect the provisions and purposes of this Act, the provisions of chapter 7 (Judicial Review) of title 5, United States Code shall apply to all suits under this title.

TITLE III—SUITS TO ENFORCE AGENCY REGULATIONS AND TO ENJOIN ENVIRONMENTALLY HARMFUL ACTIVITY

APPLICABILITY

SEC. 301. (a) A person, on his own behalf or on behalf of other persons similarly situated, may maintain a suit in accordance with this Act for declaratory or temporary or permanent equitable relief, including mandatory relief, to protect environmental quality from activity if—

(1) such activity allegedly constitutes an impairment or degradation of environmental quality under subsection (c);

(2) such activity allegedly constitutes a major action significantly affecting the quality of the environment;

(3) such suit seeks enhancement of environmental quality; and

(4) such activity allegedly affects interstate commerce.

(b) A suit under this title may be maintained against any person to the extent permitted by the eleventh amendment to the Constitution of the United States, except that no suit may be brought under this title against any Federal agency.

(c) An activity constitutes an impairment or degradation of environmental quality if—

(1) where standards, orders, permits, or other regulations for the protection of environmental quality issued by a Federal agency are applicable to the activity in question; or where standards, orders, permits, or other regulations issued by a State or political subdivision thereof, pursuant to the Clean Air Act, as amended (42 U.S.C. 1857), or the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151), are applicable to such activities; such activity is in violation of such regulations; or

(2) where no such standards, orders, permits, or regulations are applicable—

(A) the environmental and economic costs of the activity exceed the benefits to be derived from such activity; or

(B) the defendant can accomplish the purpose of such activity in an alternative manner which creates less risk of environmental damage, is of comparable social (including environmental) benefit, and does not involve unreasonable additional costs.

(d) A suit under this title may be brought without regard to the amount in controversy in any direct court of the United States in which venue is appropriate under section 1391 of title 28, United States Code. Such jurisdiction shall be concurrent with that of the courts of the several States.

REMEDY

SEC. 302. (a) The court shall grant such relief as is necessary to prevent impairment or degradation of environmental quality upon an affirmative finding with respect to paragraphs (1), (2), (3), and (4) of section 301(a).

(b) The court may grant interim equitable relief where required and for such period of time as is necessary to protect the rights recognized in this Act.

(c) The court may refer the parties or remand the action in any suit maintained under this title to the administrative and regulatory procedures provided by other law or regulation. The court shall order such reference or remand upon a finding that expeditions and informed resolution of the action would be advanced by reference or remand in whole or in part. Resort to such procedures shall not be required if such suit is maintained to enforce administrative regulations as provided in section 301(c)(1). This subsection shall not be construed to limit the authority of the court under subsection (a) or (b).

NOTICE

SEC. 303. (a) No suit may be commenced under this title—

(1) until the plaintiff has given notice of intention to commence such suit to—

(A) the defendant;

(B) the attorney general of the State or States in which the activity which is the subject of such suit has occurred; and

(C) the Council on Environmental Quality: *Provided*, That upon a showing by the plaintiff of irreparable harm, this notice requirement may, in the discretion of the court, be waived or modified; or

(2) if a Federal or State agency is diligently pursuing a suit for relief similar to that sought by the plaintiff, under this title or otherwise: *Provided*, That such plaintiff may intervene as a matter of right in any such suit to protect the rights recognized in this Act.

(b) In any suit brought under this title, any government agency whose jurisdiction extends to the environmental impact of the activity in question may, if not a party, intervene as a matter of right.

COORDINATION WITH STATES

SEC. 304. (a) No suit may be brought under this title with respect to an activity which is specifically authorized or approved by the government of any State or political subdivision of such State. This subsection is inapplicable if such activity (1) results in or reasonably may result in a significant effect on environmental quality outside such State or political subdivision, or (2) is in violation

of standards, orders, permits, or regulations referred to in section 301(c)(1).

(b) If a judgment is rendered under this title against a political subdivision of a State, such State shall assume financial responsibility for any expenses which are incurred as a result of such judgment if the laws of such State limit the capacity of the political subdivision to raise the revenues needed to pay such expenses. In any suit which might lead to any such judgment, the State shall be joined as a party.

EXHIBIT 2

STATEMENT OF THE COMMITTEE ON COMMERCE ON S. 1032, THE ENVIRONMENTAL PROTECTION ACT OF 1972

COMMITTEE SUPPORT FOR PRINCIPLES OF THE LEGISLATION

The committee has discussed the legislation reported by the Subcommittee on the Environment and has reached agreement on a number of general principles. First of all, the committee agrees that under existing law there is insufficient opportunity for judicial review of the substance of Government agency decisions concerning the environment. Both the National Environmental Policy Act and the Administrative Procedure Act have been read to impose limitations on review which the committee believes should be removed or significantly modified. Under the National Environmental Policy Act, courts have frequently declined to provide any review of the substance of agency decisions. While a few courts have indicated a willingness to conduct such review, even those have noted that the actions reviewed should be sustained unless found to be arbitrary or clearly wrong. Not one agency action has yet been overturned under the act on substantive grounds. (The committee takes no position as to the soundness of these court decisions or as to whether they are in fact mandated by the act as written.)

The Administrative Procedure Act and other statutory review actions clearly provide for substantive review. Yet under the terms of such statutes, only "arbitrary and capricious" actions or those which are "not supported by substantial evidence" may be overturned. The "presumption" test of the subcommittee bill would provide a broader standard of review and one which the committee regards as preferable.

Second, the committee agrees that agencies should be required to institute an interest balancing test in all major actions significantly affecting the quality of the human environment. The committee acknowledges that it was the intention of the National Environmental Policy Act to require such balancing by the agencies. Yet it recognizes the desirability of making more explicit the dimensions of the test to be conducted.

Third, the committee believes that because of the importance of environmental rights, special review procedures not generally accorded to those protecting other interests ought to be accorded to citizens who seek to protect the environment.

Finally, the committee agrees that while the prospective increase in court cases resulting from legislation of this sort should be examined to the extent feasible, an increase in caseload should not of itself constitute a reason for rejecting this legislation.

RESERVATIONS WITH RESPECT TO THE LEGISLATION

Despite the agreement on these various points, the committee was disturbed by some features of the legislation which it felt should be investigated more thoroughly before reporting a bill. There was some concern that the bill as introduced and as reported by the subcommittee may have extended the concept of "standing to sue" further than was desirable. One of the purposes of the legislation has been to extend standing beyond the holdings of cases such as *Sierra Club* v. *Morton*, 3 ERC 2039 (U.S. Sup. Ct., 1972) to the limits of what the Constitution will allow. Yet the committee felt that there should be further analysis of what those limits are and of whether it is in fact desirable to expand standing under the legislation. Some on the committee prefer the concept of standing as defined in the Sierra Club case.

Second, there was considerable concern about the prospect of numerous burdensome suits against the same defendants for the same activity arising under this and other similar acts. Further analysis was thought necessary to prevent the harassment of defendants which might result from repetition and duplication of litigation. The committee instructed its staff to research the possibility of a "one stop" procedure to insure that to the extent possible consistent with the Constitution all claims by all plaintiffs involving the same activity would be merged into one litigation. The staff was directed to examine possible time and venue limitations and possible procedures for consolidating cases which would not impose unreasonable restrictions on citizens desiring to bring suit under the act.

In light of these concerns with respect to the legislation and the lack of time remaining in the session, it was felt that a more thorough and meaningful effort could be put forward by the committee in the next Congress. Accordingly, the committee agreed not to report the legislation but rather to take it up as its first order of business when the new Congress convenes in January.

By Mr. PERCY (for himself and Mr. DOLE):

S. 1105. A bill to provide income tax incentives for the modification of certain buildings so as to remove architectural and transportational barriers to the handicapped and elderly. Referred to the Committee on Finance.

ANTIENVIRONMENTAL BARRIERS BILL

Mr. PERCY. Mr. President, in past years I have searched hard to find for our handicapped citizens some legislative solutions to equal educational opportunity, equal job opportunity, and equal treatment before the law. One of the least publicized and understood discriminatory practices confronting handicapped citizens is the thoughtless proliferation of architectural and transportation barriers that stand in their paths.

Today, along with Senator DOLE, I am introducing my antienvironmental barriers bill to provide appropriate tax incentives to stimulate public and private action for eliminating these barriers from the American scene. Before I begin, I would like to quote from Judith Martin's very moving Washington Post article entitled, "When 'Up' is a Down":

Step right up.

Up the curb, up the marble public steps, up the lobby stairs to the elevator. Down it all again and over to the stores. Up the parking lot rim, up the entrance stairs, up and onto the escalator. Down that again, and home. Up the garage steps, up the house stoop, or up the apartment house lobby steps.

People climb up and down all day every day, and nobody thinks anything of it.

Unless, of course, they are:

Elderly.
Pregnant.
Heart patients.
Vertigo sufferers.
Pushing baby carriages.
Pulling grocery carts.
Learning to walk.
Using walkers, braces, crutches or wheelchairs.

As one of Ms. Martin's interviewees very aptly pointed out:

Nobody really has to worry about curbs or steps if they're not going to be sick or grow old.

The truth is that the problems of environmental barriers really affect each and every one of us, for no one can be assured of physical fitness for every day of his life. The Department of Transportation estimates that short-term illnesses or injuries incapacitate about 4.6 million people at any one time. Over 200,000 people per year are permanently disabled in accidents, in war, and during birth. Eight out of 10 families have a family member afflicted with a temporary or permanent disability at one time or another. And old age, of course, will catch up with every one of us. Estimates show that 71 percent of the population born in the years from 1959 to 1961 can expect to live past the age of 60.

Ms. Martin is quite correct when she concludes that the problem of environmental barriers "Doesn't seem to cross many people's minds or to stick in the minds of those who build the streets, plan the subway or even construct Federal buildings, which are required by law to be accessible to handicapped people."

However, I do not believe that the American people, if they understood the problem, would continue to deny the handicapped, the elderly, the pregnant, the heart patients, and those temporarily disabled their opportunity to make their rightful way. Given the chance, the American people would rise, I am sure, to the challenge to create a barrier-free environment for the good of everyone—young and old, handicapped and nonhandicapped.

There is no doubt in my mind that a barrier-free environment is possible, for the cost of such an environment would not be great; design for accessibility is basically a business of eliminating rather than adding features. In 1967, the National League of Cities made a cost study of three new buildings—a civic center, a city hall, and a hotel. Comparing what was spent to what would have been spent to make these buildings accessible to the handicapped, the league found that the increased cost would have been less than one-tenth of 1 percent. The league also made cost estimates of seven hypothetical buildings, each representing a type commonly being built today, and determined that the extra cost of building them barrier-free would be less than one-half of 1 percent.

Although cost figures for making existing facilities fully accessible and usable are less certain, the General Services Administration reports that the increased cost for accessibility renovations is minimal—1 percent or less of total renovation costs.

Speaking further in strictly economic terms, only 36 percent of this country's handicapped people are employed, compared with 71 percent of the nonhandicapped population. If this country were a barrier-free society, it is estimated that

13 percent of the chronically handicapped population aged 17 to 65—189,000 people—could return to work. Employment of this group at salaries at the level prior to their disability would result in total yearly economic benefits of more than $824 million—a sum large enough to offset the cost of my bill.

But people are more important than cost. My antienvironmental barriers bill would help America take a step toward a barrier-free society where public buildings and transportation systems are no longer off limits to the handicapped and the elderly, insuring these citizens their right to belong, to pursue their aspirations, to develop their talents, to exercise their skills, to move about freely, and to live in dignity and self-respect as every other American.

I would like also to take this opportunity to congratulate the Labor and Public Welfare Committee and, especially, its Subcommittee on the Handicapped for their outstanding work in bringing about the passage of the Rehabilitation Act of 1973, of which I am a cosponsor.

I am very pleased and grateful that the Rehabilitation Act of 1973 has again incorporated my antienvironmental barriers amendments as integral parts of the bill. These amendments, I believe, will help make every American aware of the problems environmental barriers create for the handicapped and the elderly and bring about the elimination of those barriers so that new public buildings and transportation systems will be designed to serve everyone.

I am also very pleased and grateful to see the inclusion of provisions in the bill to protect the employment rights of the handicapped and to insure their equal participation in programs receiving Federal financial assistance. These provisions carry through the intent of bills which I introduced jointly with the Senator from Minnesota (Mr. HUMPHREY) in the last Congress.

Since its creation in 1920, the vocational rehabilitation program has been one of the most successful social programs administered by the Federal Government. It has been estimated that for every dollar invested in the rehabilitation of a handicapped individual, there is a return of $5 in increased earnings. More important, the goal of the program through the years has been to assure that handicapped persons have, as near as it is possible, the same opportunity to succeed and to lead productive and independent lives as have nonhandicapped persons.

The Rehabilitation Act of 1973 deserves the administration's support. I hope the President will sign this bill into law.

I now ask unanimous consent that the text of my antienvironmental barriers 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. 1105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 189. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATIONAL BARRIERS TO THE HANDICAPPED AND ELDERLY

"(a) TREATMENT AS EXPENSE.—

"(1) IN GENERAL.—A taxpayer may elect to treat qualified architectural and transportational barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

"(b) DEFINITIONS.—For purposes of this section—

"(1) Architectural and transportational barrier removal expense.—The term 'architectural and transportational barrier removal expense' means an expenditure for the purpose of making any facility owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

"(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATIONAL BARRIER REMOVAL EXPENSE.—The term 'qualified architectural and transportational barrier removal expense' means an architectural or transportational barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary or his delegate, that the resulting removal of an architectural or transportational barrier meets the standards set forth by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development under the Act entitled 'an Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped' approved August 12, 1968 (82 Stat. 718; 42 USC 4151)."

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 189. Expenditures to remove architectural and transportational barriers to the handicapped and elderly.

(c) The amendments made by this Act shall apply to taxable years ending after the date of the enactment of this Act, but only with respect to expenditures paid or incurred after that date.

ANTIENVIRONMENTAL BARRIERS ACT

Mr. DOLE. Mr. President, today I am pleased to join my distinguished colleague from Illinois (Mr. PERCY) in introducing antienvironmental barriers legislation.

Certain existing environmental barriers prohibit not only the handicapped from becoming active or participating members of society, but also the elderly, persons with disabling diseases such as emphysema, arthritis, heart diseases, and a certain segment of the population suffering temporary disabilities. This actually involves almost the entire population at one time or another.

The purpose of this bill is to provide an income tax incentive for the modification of buildings to remove architectural and transportational barriers to the handicapped.

The majority of public buildings and transportation systems in our country are inaccessable to approximately 44 million people because of certain barriers. These people are unable to use public transportation. In addition, they are confronted obstacles we consider normal, but to them can be almost insurmountable barriers, such as curbs, steps, or doorways. Many times, if the handicapped person is able to enter a building he may find the elevators too small to accommodate his wheelchair, restroom facilities inadequate, telephones and drinking fountains to high, and other problems most people are not ordinarily aware of.

These barriers force certain handicapped persons either to become solely dependent upon others for their mobility or to remain immobile. These problems can prevent a disabled person from obtaining an education or making an adequate living.

It is the hope that this legislation will provide a tax incentive for environmental modifications, and educate the public on barriers the disabled and the elderly must face, and help motivate them toward the elimination of these obstacles. The approximately 44 million disabled persons represent a consumer force that businessmen should keep in mind when deciding whether or not to modify their buildings. If these disabled persons were able to move about with greater ease they would become a much more prominent consumer group.

If our environment remains adequate only for healthy and normal people, the resources of the handicapped will be lost. This could cost our country a great deal in dollar terms, but most important of all in human terms.

I have been studying the serious matter of environmental barriers for quite some time. In my own State of Kansas there is an outstanding group working for the elimination of environmental barriers. This group is the Kansas University Committee for the Architecturally Handicapped and is active on campus as well as in the community in helping to make citizens aware of frustrations handicapped persons face in trying to move about in today's active world.

Robert Harris, a Kansas University graduate student is a member of this committee. Confined to a wheelchair himself, Robert is certainly aware of the problems of the disabled and is an excellent spokesman for this committee. The following is a statement by Mr. Harris concerning environmental barriers.

STATEMENT FROM ROBERT HARRIS—KANSAS UNIVERSITY GRADUATE STUDENT

The residents of this campus and of the surrounding community of Lawrence, Kansas, have recently become aware of the fact that environmental barriers are not just the problems of people in wheelchairs, they are the problems of all people. Together we are making a concerted effort to examine our environment from the functional perspectives of use, our least concern being that of the number of ramp curbs to accommodate students in wheelchairs. However, these modifications are not only used by persons with disabilities but more often than not they are used by people in general, including services and delivery personnel. These small changes have brought an awareness to many that has shifted the focus

from the cursory recognition of environmental problems and those problems specific to persons with disabilities. These changes have created more local understanding of those same problems as applicable to all persons who use the facilities in our community.

Even though some facilities are designed to serve only persons with particular disabilities such as raised lettering denoting room numbers to the blind and specifically equipped restrooms for orthopedically disabled, we feel that such provisions should be made because all people have a right to be part of the community. The additional fixtures, space, and other features needed to make buildings accessible, do increase cost but not substantially. The 1968 estimate by the Social and Rehabilitation Service Department of H.E.W. promotes new construction and modifications of existing structures (excluding elevators) and suggested that the increase may be no more than 1% of the total cost. In view of the many benefits to persons with disabilities, this minimal increase in cost is a sound solution and improves savings for the able-bodied.

When service personnel cannot make their deliveries, when persons with heart conditions find stairs too steep to climb, when the orthopedically disabled discover that curbs and sidewalks inhibit their mobility, then environmental barriers have severely limited our efficiency in performing necessary tasks and has caused our community thousands of dollars in wasted man hours.

Again, we have discovered that not just persons with disabilities have to suffer the consequences of being limited by the inadequate environment, but rather people of our community. When a person with a disability has the necessary skills to meet the demands of his chosen occupation, but is prohibited from realizing his potential because of a restrictive environment, we all lose.

The person with a disability loses because he must rely on other sources of income such as aid to the disabled, to support his family and himself, when he knows he can fulfill the duties of the job for which he has been trained. Furthermore, the loss of the community in such situations is manifold. First, we overburden our welfare system by making it necessary to support people who are incapable of supporting themselves. Second, we lose the tax dollars these people would provide to help support and maintain the community. Third, we lose the resources of capable people to provide skills necessary to the community. Finally, we have learned that no one can measure the cost in terms of peoples' lives. The person who can perform a job and is frustrated by environmental barriers is not given the chance to develop pride and satisfaction in accomplishment of his productive skills. In addition, he has been denied the opportunity to feel he is a respected member of the work force that can provide a service.

The psychological implications of environmental barriers in their devastating consequences cannot be estimated in dollars and cents, if we are aware of the persuasiveness of these effects on persons from all walks of life, in all sectors of the country, and in all age groups.

We have organized a committee to survey our campus and city in order to demonstrate the exact nature of the architectural barriers in our environment. Moreover, we have made every effort to involve people of varied interests and persuasions in an attempt to provide the widest range of perspectives possible on this issue. Committee members include *persons in architectural* design, architectural planning, lawyers, physicians, psychologists, maintenance personnel, city commissions and officials, university administrators, occupational therapists, students, and persons with disabilities. This latter group has been especially instrumental in bringing about an awareness of the general nature of the problem to the committee. The people of the university and of the community have donated their time and effort for making our environment a place in which all people can live and work and enjoy themselves.

As Mr. Harris stated very simply, our environment should be a place in which all people can live and work and enjoy themselves.

Through this antienvironmental barriers legislation hopefully our environment will assume new dimensions where as our public transportation systems and buildings will be more accessible and not off limits to the handicapped and the elderly.

By Mr. PERCY:

S. 1106. A bill to amend the Federal Reports Act to avoid undue delays in the collection of information by Government agencies. Referred to the Committee on Government Operations.

Mr. PERCY. Mr. President, Congress enacted the Federal Reports Act in 1942 to cut bureaucratic inefficiency and curb Government harassment of small business. But in the ensuing years, under several administrations, the Budget Bureau and its latter-day successor, the Office of Management and Budget, has misread congressional intent. Using the Federal Reports Act, OMB largely controls the investigatory functions of Federal agencies.

The Federal Reports Act emerged during World War II crisis years. Massive Government information-gathering accompanied price controls and rationing. People waited in long lines occasioned in part by paperwork, overkill, and red-tape. Congress acted quickly to alleviate the situation. Unwittingly, it gave the then Bureau of the Budget broad discretionary authority over Government information gathering.

Federal agencies, under the act, must now receive OMB approval for collecting identical information from more than nine persons or business firms. Agencies send their questionnaires to OMB for review. OMB industry advisory committees—composed of representatives of big businesses rather than the small businesses the act was designed to protect—screen the data requests. Whole questions or series of questions can be stricken from the questionnaires. Information requests can be denied altogether, or as happens more commonly, requests are delayed until the desired information is no longer relevant or necessary. In the end, OMB decides what information the Government can gather, at least as to situations covered by the Federal Reports Act.

There is a clear conflict of interest. Representatives from the firms and industries affected select which questions the Government can ask. Moreover, there is no time limitation as to the length of time OMB can withhold its approval. Indeed, OMB can delay a questionnaire indefinitely. Denial of information merits no explanation whatsoever. And, at least until recently, most OMB advisory committee meetings have been conducted in secret. It is expected that passage last year of the Federal Advisory Committee Act—Public Law 92-463—will correct that unhealthy situation.

Delay tactics abound. Testimony offered during hearings of the Subcommittee on Intergovernmental Relations last year indicated that the national waste inventory survey was detained 7 years by OMB-sanctioned devices. The OMB advisory committee reportedly favored granting corporate property rights over poison effluents. No Federal agency could then survey an industry's waste chemicals.

Congress designed the Federal Reports Act to halt uneconomic duplication by information-gathering agencies and to insulate small businesses from burdensome Government inquiries. Present delay procedures are, however, costly. The consequence of affording immunity to probing investigations, as into monopolistic behavior or anticompetitive conduct, can mean even greater harm to small businesses.

To be effective, Federal agencies require reasonable investigatory privileges. Where a request is unreasonable, it should be rejected or modified, but OMB should explain any such actions. Otherwise, delay is default. I am, therefore, introducing this measure to appropriately limit the OMB review period to 60 days and require a full explanation for any disapproval of information requests by agencies.

Many Americans lack faith in the Federal Government. Many believe that information is deliberately being suppressed. A free government must merit public respect. A first step in that direction is to be willing to explain its actions and to conduct its affairs in public view. Those who operate in the public's name should operate in the public view.

If Government cannot assemble accurate and needed information without undue interference, it cannot govern effectively.

I call the attention of my colleagues to the fact that the provisions of this legislation were incorporated last year in my Federal Advisory Committee bill, which was unanimously approved by this body. This section, however, was knocked out in the House-Senate conference as being nongermane to the subject matter at issue. Since in fact the provisions apply not only to advisory committees but to all agencies of Government, I believe that separate legislation at this time is appropriate to accomplish the stated purposes.

Mr. President, I ask unanimous consent that the text of 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. 1106

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

SECTION 1. Section 3509 of title 44, United States Code, is amended by inserting "(a)" before the words "A Federal agency" and by adding at the end thereof the following new subsections:

"(b) A determination of disapproval by the Director shall be accompanied by a full statement of the reasons therefor.

"(c) Any collection of information which has been referred to the Director of the Office of Management and Budget for his approval

under section 3506 of this title or under subsection (a) of this section shall be approved or denied within sixty days or such approval shall be deemed to have been granted."

By Mr. McGEE:

S. 1107. A bill to permit immediate retirement of certain Federal employees. Referred to the Committee on Post Office and Civil Service.

Mr. McGEE. Mr. President, I introduce for appropriate reference, a bill to permit the optional retirement on reduced annuity of Federal employees with at least 25 years of service, or, after becoming 50 years of age, with at least 20 years of service.

Mr. President, this legislation was submitted and recommended by the Civil Service Commission, and I ask uanimous consent that the communication be printed at this point in the RECORD.

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

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., February 26, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: The Commission submits for the consideration of the Congress, and recommends prompt favorable action on, the attached legislative proposal which, during a major reduction in force in a department or agency, would permit the optional retirement on reduced annuity of Federal employees with at least 25 years of service, or after becoming 50 years of age, with at least 20 years of service.

The proposed legislation would be of inestimable benefit to employees, management, and the community in which an installation undergoing a reduction in force is located. Reductions in force have a depressing effect on employee morale and result in severe personal hardships caused by loss of income and uncertainty regarding future employment. Major reductions in force, through multiple "bumping" actions, also have a disruptive effect on agency management. To the extent that attrition, particularly retirement, reduces the need for involuntary separations and the chain-effect displacement of employees with lower retention rights by those with higher retention rights, these hardships and disruptions are mitigated.

In a smaller community where a Federal installation is a main source of employment, a major reduction in force may adversely affect the community's economy. In a larger community, the release of many employees in some occupational categories may place on an already troubled labor market people for whom there are no comparable occupationas in the private sector. Permitting people to retire on annuity income and spreading voluntary retirements throughout an entire department or agency, or a subdivision of a department or agency, as the attached legislation proposes, would at least moderate these adverse effects of reductions in force on the community.

Another benefit to be derived from the proposed legislation is that it will enhance the agency's future effectiveness in carrying out its mission by helping to retain younger employees. Nothing raises the average age of an organization more quickly than a substantial reduction in force in which the youngest employees with the lowest retention standing are separated and the oldest employees are retained.

Under present law, an employee who is at least age 50 and has at least 20 years' service, or 25 years' service regardless of age, may retire on an immediate annuity if he is involuntarily separated, as when he is reached by reduction in force. Unless the employee is old enough and has sufficient service to retire optionally (age 55 with 30 years of service, age 60 with 20, or age 62 with 5), if he is not reached for reduction in force, he does not have the right to retire even if he is desirous of doing so, and thus permit an employee who wants to continue to work to be retained. The proposed legislation would simply give the long service employee who is not eligible to retire under the regular optional retirement provision of the law the opportunity to retire voluntarily during a limited period when his agency is undergoing a major reduction in force.

Under the proposed legislation, the Commission would make the determination as to when a reduction in force is major and would fix the time within which employees could exercise the option to retire. In determining when a reduction in force is a major one, the Commission intends to take into account such things as the impact it will have upon the local economy, the degree of disruption of the operations of an agency or installation, and the effect on its future capability to effectively carry out its mission. A reduction in force which affects a large number of employees in relation to the total number in the agency, or a large number of employees in the same competitive area or in a community would clearly be a major one. The time within which the option to voluntarily retire could be exercised would be set by the Commission so that employees could not defer a decision until the reduction-in-force had been nearly completed. The Commission will also make the determination as to whether eligible employees throughout the agency could exercise the option to retire, or whether the option to retire would be restricted to eligible employees of the agency who are employed in specific geographic areas or organizational units where the effects of the reduction in force are particularly severe. Like employees who are involuntarily separated those who exercise the option to retire voluntarily in a major reduction in force will have their annuities reduced by 1/6 of 1 percent (2 percent a year) for each month they are under age 55.

As in regular optional retirement cases, the Commission would be vigilant in enforcing the requirement that a retirement under the proposed legislation is the result of the employee's voluntary action rather than of coercion by his agency. Also in situations where voluntary retirements are not confined to designated geographic areas, the Commission would require an agency to try to place an employee adversely affected by a reduction in force in one geographic area in a job vacated by retirement in another area.

Inasmuch as the number of employees eligible to retire if the proposed legislation were enacted would depend on whether the Commission authorized voluntary retirement on an agency-wide, or on a more restrictive geographic basis, it is not possible to provide more than speculative cost estimates.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to submission of this draft bill to Congress.

A similar letter is being sent to the Speaker of the House.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

By Mr. MONDALE:

S. 1108. A bill to amend the Internal Revenue Code, in order to protect farm property from estate taxation based upon its valuation for nonfarm use. Referred to the Committee on Finance.

FARM PROPERTY ESTATE TAX VALUATION ACT

Mr. MONDALE. Mr. President, urban sprawl and the Federal estate tax are combining to force the involuntary sale of family farms.

The problem addressed by the bill which I introduce today arises where land presently in use for farming has a much higher value if employed for nonfarm use. For example, land worth $400 per acre for farming might be worth $10,000 per acre for location of high-rise apartments. Often this is the case where farm property is located on the outskirts of a metropolitan area, or in the path of a corridor connecting metropolitan areas.

Section 2031 of the Internal Revenue Code provides for inclusion in the gross estate, for Federal estate tax purposes, of all real property owned by a decedent. While Internal Revenue Service regulations do not speak specifically to this issue, IRS practice has been to value property for estate tax purposes at "fair market value"—its value on the open market—at its "highest and best use."

Under the doctrine of "highest and best use," the farmland would be valued for Federal estate tax purposes at the higher amount, even if the farm has been bequeathed to surviving family members who want to continue its operation. Payment of the increased estate tax would certainly cause hardship and might require the heirs to sell the farm.

Section 6166 of the present law protects closely held family businesses, including farms, by permitting payment of estate tax over a 10-year period, so long as the business or farm remains within the decedent's immediate family. This is helpful, but it is not enough where farmland has been subjected to high valuation for alternate, nonfarm uses.

Retention of land for agricultural use, and preservation of the family farm, are in the vital interest of this Nation.

And yet, the present estate tax law throws the power and weight of the Federal Government into the balance to force the sale of family farms, and to convert farmlands to nonagricultural purposes.

A law which encourages farm families to leave the land—or requires them to suffer through lean years in order to pay an estate tax bill—is intolerable.

Therefore, the bill which I introduce today provides for valuation of farm property at farm value for estate tax purposes.

To avoid creating a tax shelter for those retaining farm property but later converting it to alternate use, the bill defers the remaining tax which would be assessed if the property were valued at its "highest and best use." This deferred tax would be assessed when the land is, first, converted to nonfarm use or, second, transferred out of the immediate family.

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

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

S. 1108

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 "Farm Property Estate Tax Valuation Act".

SEC. 2. Part III of subchapter A of chapter 2 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 2045. REAL PROPERTY USED IN FARMING.

"(a) VALUATION OF FARM PROPERTY.—In the case of real property used in farming by the decedent, the value of such property to be included in the gross estate shall be the value of such property for farming purposes, provided that the executor agrees to the provisions of subsection (b).

"(b) SPECIAL RULES.—The election to include farm property in the gross estate at the value provided in subsection (a) shall apply only if—

"(1) The provisions of section 6166 apply to the farming business or businesses of the decedent, and the executor could elect to pay the tax imposed by section 2001 attributable to the inclusion of the value of such property in the gross estate in installments, and information as to value in alternative uses is submitted with the estate tax return; and

"(2) The executor agrees to the payment of tax computed in accordance with the provisions of section 1253 upon the disposition of the property (a) in any manner which would accelerate the payment of tax under section 6166(h), or (B) if any partnership, trust, or corporation to which the farming property may be transferred ceases to use such property for farming.

"(c) EXCEPTION.—Where an interest in farming property (with respect to which estate tax under section 2001 has been determined using the value provided in subsection (a)) is subject to transfer as the result of the death of a person described in section 6166(h)(1)(D), such transfer shall not constitute a disposition under subsection (b), and the amount of tax with respect to such earlier transfer of such property which would have become due upon disposition of such interest shall not become due as a result of such transfer and shall not thereafter become a libaility upon subsequent transfer of such interest."

SEC. 3. Part IV of Subchapter P of Chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 1254. Gain from disposition of farming property.

"(a) CIRCUMSTANCES UNDER WHICH SECTION APPLIES.—This section shall apply to any transfer of property valued under section 2045(a) which is a disposition under section 2045(b)(2).

"(b) TAX.—In lieu of the tax imposed by section 1, there is hereby imposed upon the disposition of property to which section 2045 applied a tax which shall consist of the sum of (1) the amount by which the estate tax determined under section 2001 would have exceeded the estate tax determined by valuing farming property at farming value had such farming property been valued without regard to section 2045 or at a value at date of disposition if such value is less than the value wtihout regard to section 2045, plus (2) if any amount is due under (1) and if the disposition would be taxable under other provisions of this subtitle, an amount determined in accordance with such other provisions using as basis the value for making the detemination under (1).

By Mr. MONDALE (for himself, Mr. BAYH, Mr. CRANSTON, Mr. EAGLETON, Mr. HART, Mr. HATHAWAY, Mr. MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. MOSS, and Mr. PROXMIRE):

S. 1109. A bill to amend the Internal Revenue Code of 1954 to provide that the designation of payments to the Presidential Election Campaign Fund be made on the front page of the taxpayer's income tax return form. Referred to the Committee on Finance.

THE $1 CAMPAIGN FUND CHECK-OFF

Mr. MONDALE. Mr. President, I am today introducing legislation to require the Internal Revenue Service to place the $1 check-off for the Presidential Election Campaign Fund on the front page of individual tax returns.

Joining with me in introducing this legislation are the Senators from Indiana (Mr. BAYH), California (Mr. CRANSTON), Missouri (Mr. EAGLETON), Michigan (Mr. HART), Maine (Mr. HATHAWAY), Montana (Mr. MANSFIELD), Wyoming (Mr. MCGEE), South Dakota (Mr. MCGOVERN), Utah (Mr. MOSS), and Wisconsin (Mr. PROXMIRE).

In 1971, Congress voted to allow every taxpayer to contribute $1 to a Presidential Election Campaign Fund by making a check-off on his or her income return.

It was clearly our intention and understanding that this check-off would go on the front of every taxpayer's return.

Now it turns out that the Internal Revenue Service has decided to place it on a separate form that is unlikely ever to come to the taxpayer's attention. This form—form 4875—is hidden away in the back of the package of material sent to taxpayers. Many banks, post offices, and other places where income tax forms are obtained do not have the form.

Because of this, only about 4 percent of the taxpayers filing returns so far this year have taken advantage of the check-off. If this keeps up, obviously the new law will fail to achieve its purpose, and perhaps the entire concept of public financing of campaigns will be placed in jeopardy.

In order for the Presidential Election Campaign Fund to contain enough money to allow each major party to receive the $20 to $22 million authorized it in the 1971 act, at least 10 to 15 percent of the taxpayers would have to use the check-off each year.

I am convinced that the number of people participating in the checkoff system would be doubled or tripled if the administration had not taken this action to undermine the system's effectiveness.

The Nixon administration has never believed in this system. When he signed it into law, the President expressed confidence that the Congress would see the "defects" of the checkoff system and would repeal it. Apparently he is doing everything possible to see that the system fails so that his prediction will come true.

Public financing of presidential campaigns is the most fundamental and potentially far-reaching election reform adopted in this century. If it works—as I am confident it can work—it will effectively divorce presidential politics from the corrosive influence of big money and special interests.

So long as we have a system of campaign financing which not only relies on but encourages large contributions from the wealthy, so long will we have a government in which moneyed interests speak louder than people interests. That is what the dollar checkoff is designed to correct and that is why its effectiveness is so crucial to the integrity of our political system.

This bill I am introducing should not even be necessary; the original intent of the Congress was perfectly clear. But if we have to pass laws saying we really mean what we said the first time, we will do it.

The bill requires that, starting next year, the $1 checkoff appear on the front page of each taxpayer's return. In addition, since the IRS has done little to publicize the checkoff this year, it also requires the IRS to give "extensive publicity" to the provision, with emphasis on the fact that a dollar contributed to the checkoff fund does not cost the taxpayer anything extra.

The distinguished Senator from Minnesota (Mr. HUMPHREY), and the distinguished chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG), have both looked into this effort by the IRS to thwart the intent of Congress, as has my colleague from Minnesota, Congressman DONALD FRASER. In addition, Common Cause has sought to persuade IRS to give greater publicity to the checkoff.

I ask unanimous consent that a number of newspaper articles describing their efforts appear in the RECORD at this point, along with the text of the bill being introduced today:

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

S. 1109

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

SECTION 1. (a) Section 6096(c) of the Internal Revenue Code of 1954 (relating to the manner and time of designation) is amended by inserting after "any taxable year" the following: "on the first page of an individual's income tax return form".

(b) The amendment made by subsection (a) shall apply with respect to taxable years ending after the date of enactment of this Act.

SEC. 2. (a) The Secretary of the Treasury or his delegate shall give extensive publicity to the Presidential Election Campaign Fund, including prominent notice in explanatory material sent to individuals, posters, and the use of radio, television, newspapers and other media. This publicity shall emphasize that the designation provided for in section 6096 of the Internal Revenue Code of 1954 does not increase an individual's tax liability.

(b) Subsection (a) shall take effect upon the date of enactment of this Act.

[From the Washington Post, Nov. 22, 1972]

NO SPACE ON 1972 TAX FORMS FOR $1 CAMPAIGN CHECK-OFF

(By Morton Mintz)

The Internal Revenue Service will be taken to court for omitting a space on 1972 tax forms for taxpayers to participate in the "dollar check-off system" for public financing of presidential elections, it was learned yesterday.

Congress enacted the check-off system a year ago to permit any taxpayer to assign $1 from his income tax to the political party of his choice. A married couple filing a joint return can assign $2. The amount of tax owed is not increased for persons who participate.

The taxpayer also may assign the money to a nonpartisan general account for all eligible

presidential and vice presidential candidates.

Though the new tax forms don't contain a check-off space, an IRS spokesman said each Form 1040 and 1040A will arrive in a package that, in a multi-colored printed notice on the cover, calls attention to a "Presidential Election Campaign Fund" form inside.

Also on the cover is a special message from the Commissioner of the IRS that calls attention to the contribution form, which bears the number 4875, the spokesman said.

Common Cause, a people's lobby, said it will file by Monday a lawsuit that, if successful, would force the IRS to abandon the 1972 forms, which it has been printing for about a month, and substitute new ones.

Sen. Hubert H. Humphrey (D-Minn.), in a related development, charged that the forms adopted by the IRS are an effort to "deliberately thwart" full taxpayer participation in the check-off system for public financing on presidential elections.

The IRS spokesman, rejecting the charge, said the package system of separate forms was adopted to prevent any possible intrusion of a taxpayer's expression of a political preference into the administration and auditing of his tax return.

The legislative history of the law, which is to go into effect in the current tax year, clearly shows that it was intended to "reduce the dependency of candidates for the presidency on large contributors and to encourage the participation of all Americans in the financing of presidential campaigns," Humphrey said in a letter yesterday to Treasury Secretary George P. Shultz.

The law's history also shows that Congress intended Forms 1040 and 1040A each to have an entry so that a taxpayer could check off a contribution, Humphrey said.

This contention is shared by Common Cause and Tax Analysts and Advocates, a public-interest tax law firm. The organizations independently discovered the omission of a check-off from the tax forms.

Humphrey protested to Shultz that the IRS decision to omit the check-off entry and use a separate form will deny the opportunity that Congress intended to offer millions of taxpayers, many of whom "will not even recognize the opportunity."

"If IRS does not include an easy to understand check-off system" in the standard forms, Humphrey said, "only higher income persons—persons who normally file more than one tax schedule—will be encouraged to exercise the option of giving to the political party of their choice."

[From the Boston (Mass.), Herald American, Jan. 3, 1973]

"PEOPLE" AGREE WITH IRS

(By David Barnett)

WASHINGTON.—Common Cause, the so-called people's lobby, has won a compromise of sorts with the Internal Revenue Service over the "dollar checkoff system" for public financing of presidential elections.

Congress last year changed the tax law to permit a taxpayer to allocate $1 of his income tax payment to the political party of his choice or to a non-partisan general account for presidential candidates.

Instead of putting a simple checkoff box on the basic income tax forms 1040 or 1040A, the IRS decided to handle the checkoff on a separate form 4875.

Common Cause last November threatened a law suit to force the IRS to abandon the 1972 forms which already were being printed. Negotiations between the agency and Common Cause produced this general compromise.

The IRS will use the forms as printed but will give widespread publicity to the checkoff system.

The IRS will hold public hearings in the spring before deciding how to handle the system on 1973 forms.

Mitchell Rogovin, the lawyer who handled the Common Cause side of the dispute, conceded that it wasn't much of a victory.

He said innocent persons would have been harmed had the matter been taken to court.

He said he suspected IRS had used the separate form system to try to get a low response and thus persuade Congress the system was unworkable.

In signing the tax bill containing the checkoff Dec. 10, 1971, President Nixon expressed confidence that Congress would see the "defects" of the checkoff system and would repeal it.

The IRS contends it developed the separate form to prevent any possible intrusions of a taxpayer's expression of political preference into the administration and auditing of his tax return.

A Common Cause spokesman called that a fake issue. The checkoff box, he pointed out, could have been attached to the main form by perforation, detached and put into a separate pile after the form had been filed.

Packages of tax forms mailed to taxpayers will carry a multi-colored printed notice on the cover calling attention to the presidential election campaign fund form inside.

Common Cause is more concerned with the forms distributed individually in banks and other places on the theory that the taxpayer will forget to pick up the checkoff form and there is nothing on the 1040 to remind him.

Some 160 million separate forms are distributed in such fashion in some 16,000 locations.

THE ELUSIVE TAX-CHECKOFF FORM

(By Clayton Fritchey)

This a report on how a determined administration can thwart the will of Congress and the public by violating the spirit, if not the letter, of the law. This revealing example involves the financing of presidential election campaigns, now very much in the public mind because of the Watergate scandal.

Even before the Watergate revelations aroused interest in the $10 million secret Nixon campaign fund, however, Congress, prodded by the mounting concern of the electorate, passed a bill providing for public financing of presidential election campaigns.

The plan was simplicity itself. It invited every taxpayer to make a checkmark on his income-tax return indicating whether he would like $1 of his payment to be set aside to subsizide the presidential campaign of his party's nominee or an independent. The idea was that this would free all of the nominees from obligating themselves to special interests.

It was calculated that the checkoff (not costing the taxpayer anything) would provide $20.4 million for each of the major presidential candidates, as well as substantial sums for any minor candidate. The candidates were not required to accept the public subsidy, but if they did, they could not legally accept private money in addition.

Although the bill generated bipartisan support on Capitol Hill, it was poison to the Nixon moneymen who, with their connections to the rich and big business, rightly figured they could raise twice as much as the opposition, regardless of who the Democratic nominee might be.

The upshot was a compromise. Faced with a presidential veto, Congress got the bill through by postponing the effective date from 1972 to 1976. This enabled Mr. Nixon to swamp the Democrats last year with a record campaign chest of $50 million, or maybe more.

The word from the administration was: Don't worry about 1976. After the re-election of Mr. Nixon, there would be four years in which to discredit, sabotage or repeal the $1 checkoff reform. As will be seen, this was not idle talk. The operation has begun.

The discrediting started last week with "leaks" intimating that the checkoff plan, contrary to general belief, had little popular support. The administration reported that only 4 per cent of the first 12 million income-tax returns received this year approved $1 being set aside for financing future political campaigns.

But Sen. Russell Long (D-La.), chairman of the Senate Finance Committee and author of the checkoff, was not born yesterday. In his politically shrewd mind, something was wrong in Denmark, or at least in the Internal Revenue Service.

Within 24 hours, he had the answer. The government has not alerted the taxpayers to the checkoff box on this year's income-tax form. In fact, it wasn't included on Form 1040 and 1040–A at all. It appeared only on a small supplementary form, which millions of taxpayers are not likely to notice.

Over in the House, Rep. Donald Fraser (D-Minn.) also has done some investigating, which shows that the Internal Revenue Service (IRS) has not only done little to publicize or explain the checkoff innovation but in many cases has made it difficult for taxpayers even to get this special checkoff form, known as Form 4875.

The checkoff, Rep. Fraser says, is "one of the most important political reforms for the last 50 years, but IRS is not doing much to let people know about it." Rep. Fraser put it mildly. The IRS has not provided Form 4875 to banks, post offices and other places where millions of taxpayers pick up their forms.

Even those who get tax packets mailed out by the government are not likely to be alerted to the checkoff. There is a brief explanation, but, as Rep. Fraser points out, it "neglects to tell the taxpayer that he can allocate $1 to the party of his choice at no extra cost to himself. Not until he gets to the form itself at the back of the packet does he get this information."

Even if Sen. Long and Rep. Fraser succeed in getting some co-operation from the IRS, the administration has still other ways of circumventing the checkoff reform. As the legislation stands, the money earmarked between now and 1976 will require a further appropriation act before it can be used, and that, of course will be subject to a presidential veto.

FORMS AVAILABLE, IRS REPLIES—CAMPAIGN CHECKOFF HANDLING CRITICIZED

(By John Hanrahan)

Rep. Donald M. Fraser (D-Minn.) has complained to the Internal Revenue Service that the agency is discouraging people from allocating $1 of their income tax to the 1976 presidential campaign by inadequately publicizing the new $1 tax-checkoff system.

An IRS spokesman disputed his contention.

Fraser said last week that a survey by his staff had disclosed that the $1 check-off form Form 4875, was unavailable at eight Washington area locations and three Minneapolis locations that handle other federal tax material.

A Washington Post telephone survey disclosed that the form is available at only three Washington-area locations that handle other federal tax forms.

"The form is included, it's true, in the instruction packet mailed out by IRS, but only a brief word of explanation is provided on the front of the packet," Fraser said.

"This explanation neglects to tell the taxpayer that he can allocate $1 to the party of his choice at no extra cost to himself. Not until he gets to the form itself at the back of the packet does he get this information."

Fraser said that the checkoff should have

been included on the basic 1040 and 1040A forms most taxpayers use instead of being on a separate form. Fraser said he had asked IRS Commissioner Johnnie M. Walters to give more publicity to the $1 checkoff before the April 15 filing deadline.

Under the voluntary checkoff plan, a taxpayer can check off whether he wants $1 of his tax payment to be used to finance the presidential campaign of the party of his choice, or whether he wants the money to go into a nonpartisan fund to benefit all candidates.

Fraser called the check-off "one of the most important political reforms of the last 50 years, but IRS is not doing much to let people know about it."

IRS spokesman Wilson Fadely disputed Fraser's arguments Thursday, saying that IRS is adequately publicizing the plan and is not causing any taxpayer a hardship.

Fadely acknowledged that many first-time taxpayers or people who move during the course of the year do not receive tax packets in the mail. He said that if these people went to banks or post offices, which handle the 1040 and 1004A forms, they would be unable to get the tax check-off forms.

But, he insisted, this does not provide any hardship.

"They could phone us and we'd mail the forms to them," he said. "Or, they could come to our national office or to one of our field offices and get them."

The IRS tax information office said the check-off forms are available in the D.C. area only at 1201 E St. NW, the IRS headquarters; and at field offices in Wheaton Plaza in Maryland and at Baileys Crossroads in Virginia.

Fadley said that the check-off provision was not included on the 1040 and 1040A forms for reasons of space and the taxpayers' privacy. He said that IRS officials auditing a taxpayer's return should not be able to know the taxpayer's political affiliation for fear of being accused of bias toward Republicans or Democrats.

As for publicity, Fadley said that IRS district offices throughout the country have set up radio spot announcements and sent out news releases publicizing the check-off provision.

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

S. 1110. A bill to provide for orderly trade in fresh fruits and vegetables, and for other purposes. Referred to the Committee on Agriculture and Forestry.

FRESH FRUITS AND VEGETABLES MARKET-SHARING ACT OF 1973

Mr. GURNEY. Mr. President, today I am reintroducing, joined by my colleague from Florida (Mr. CHILES), legislation which is designed to give relief to the U.S. fruit and vegetable industry from a serious problem which continues to plague domestic production.

In the past 10 years, imports of foreign fresh fruits and vegetables have increased to a point where it has significantly hindered or altered the domestic agriculture industry. For example, the percentage of tomatoes imported into the United States from Mexico over a 10-year period has increased by 216 percent, for peppers the increase was 284 percent, for cucumbers, 1,090 percent; for squash, 5,235 percent, and for eggplant, 1,243 percent. Moreover, the greatest part of these increases have taken place in the past 5 years. Clearly, with figures like these, the domestic producer cannot continue to operate under these conditions and survive indefinitely.

In my own State of Florida, for example, this unregulated increase in volume of foreign imports has created chaos. Prices of domestic products have dropped, farmers have gone into bankruptcy, and the income of farm laborers has fluctuated downward.

Few persons are truly cognizant of the effects these imports are having on the economy of both Florida and the Nation due to the lack of an effective U.S. reciprocal trade agreement. Every other country in the world with whom the United States does business has a well-defined foreign trade policy which is tailored to its domestic needs as well as designed to promote its world trade position. Therefore, the present U.S. trade policy in fresh fruits and vegetables leaves American producers at a domestic, as well as an international, disadvantage.

Opponents of market-sharing or quota-type legislation argue that such a policy would interfere with the U.S. Government's long-term efforts to increase U.S. agricultural exports by reducing foreign trade barriers. Such reductions are one of the major objectives of GATT—General Agreement on Tariffs and Trade—but since Mexico is not a member of GATT, that should not be a consideration. Of greater concern is the fact that Mexico is becoming, if it has not become already, the principal supplier of U.S. imports of fresh fruits and vegetables.

Mr. President, the worst part of all is that the biggest blow is falling on the American producers. We are expecting him to pay high wages, taxes and the cost of research and development, but we do not consider what will happen if he cannot sell his produce on the domestic market.

This legislation, if enacted, would require our Government to direct its efforts toward achieving a reasonable agreement with trading partners, and back these agreements with an effective import quota law. It would provide that the total exports to the United States during the season would not exceed an agreed upon level based upon volume of shipment during a representative period, and it would give the President the power to adjust this policy in times of emergencies, that is, crop failures.

The enactment of this legislation will establish an equitable and orderly marketplace, consistent with the maintenance of a strong and expanding U.S. agricultural policy. At the same time it will provide corrective action for a situation which is presently threatening our domestic industry. I, therefore, urge my fellow colleagues to take a good hard look at the problem I have outlined and then take the necessary steps by supporting this legislation.

Mr. President, I ask unanimous consent that a statement prepared by Senator CHILES be printed at this point in the RECORD.

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

STATEMENT OF SENATOR CHILES

Mr. President, over the past year members of my staff and I have met on a number of occasions with fresh fruit and vegetable producers, particularly tomato growers, who are deeply concerned over the survival of their industry. They are facing not only the problem of continuing increases in cost of production and marketing, but the continuing increase in imports of foreign produce, especially Mexican tomatoes.

As a result of my conversations with growers, I am convinced that due to higher costs of production and higher wages in the country, imports of fresh fruits and vegetables will undoubtedly continue to increase if left uncontrolled and will continue to destroy the market for domestic produce.

In the 92nd Congress, Senator Gurney and I introduced a bill, S. 3547, to provide for orderly trade in fresh fruits and vegetables. We are reintroducing that proposal again today, declaring it to be the policy of the Congress that access to the United States market for foreign produced fresh fruits and vegetables should be established on an equitable and orderly market-sharing basis consistent with the maintenance of a strong and expanding United States production and designed to avoid the disruption of U.S. markets and the unemployment of our agricultural workers. This bill authorizes and directs the President to undertake negotiations with other governments for the purpose of fixing agreements to provide orderly trade in fresh fruits and vegetables, including the quantitive limitation of imports.

Our bill seeks to control imports of fresh fruits and vegetables by either (1) voluntary limitation agreements, or (2) if a voluntary agreement is not reached, then by imposing of limitation which reflects a 5 year average of the import of any one particular commodity. Neither measure, we feel, is inflexible nor would they be unduly restrictive.

The fruits and vegetables affected by this measure are limited to those produced in commercial quantities in the United States. I urge my colleagues to support this bill—to exercise some control over the carloads of Mexican tomatoes—and other fruits and vegetables appearing without prior notice and causing prices to drop drastically, hurting our own farmers through disruption of the domestic market.

By Mr. HUDDLESTON:

S. 1112. A bill for the relief of Mukhtar M. Ali. Referred to the Committee on the Judiciary.

Mr. HUDDLESTON. Mr. President, I am today introducing a bill for the relief of Dr. Mukhtar M. Ali.

Generally, I have reservations about the advisability of private bills. Dr. Ali's case is, however, somewhat unusual, and, for that reason, I am introducing this bill. Dr. Ali was born in Tangra, India, and prior to coming to the United States in 1966 was a member of the faculty of the University of Rajshahi, East Pakistan. Dr. Ali entered the United States for the purpose of studying under a Fulbright scholarship and with the understanding that he would return to his homeland upon completion of his doctoral studies. As we all know, however, the situation in what was Dr. Ali's homeland has changed drastically in recent years. In the meantime, Dr. Ali has proved himself a very valuable member of the faculty of the University of Kentucky, where he is now an associate professor. I hope, consequently, that this bill on his behalf will receive prompt consideration.

By Mr. CRANSTON (by request):

S. 1113. A bill to amend the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. CRANSTON. Mr. President, I introduce a bill to increase the total

amount of loans, guarantees, and other obligations under paragraph 4 of section 4(c) of the Small Business Act.

Mr. President, this bill is being submitted on recommendation of the Small Business Administration and I ask unanimous consent that the bill and analysis be printed in the RECORD.

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

S. 1113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 4(c) of the Small Business Act is amended—

(1) by striking out "$4,300,000,000" and inserting in lieu thereof "$7,400,000,000";

(2) by striking out "$500,000,000" where it appears in clause (B) and inserting in lieu thereof "$800,000,000";

(3) by striking out "$500,000,000" where it appears in clause (C) and inserting in lieu thereof "$650,000,000"; and

(4) by striking out "$350,000,000" and inserting in lieu thereof "$500,000,000".

ANALYSIS OF S. 1113

The bill would effect four amendments to the provisions of section 4(c)(4) of the Small Business Act governing the amount of loans, guarantees, and other obligations or commitments which may be outstanding at any one time from the Business Loan and Investment Fund.

The first of these amendments would increase from $4,300,000,000 to $7,400,000,000 the amount which may be outstanding from the fund at any one time under sections 7(a), 7(b)(3), 7(e), and 8(a) of the Small Business Act, and Title IV of the Economic Opportunity Act of 1964. The second amendment would increase from $500,000,000 to $800,000,000 the amount which may be outstanding at any one time under Title III of the Small Business Investment Act of 1958. The third amendment would increase from $500,000,000 to $650,000,000 the amount which may be outstanding at any one time under Title V of the Small Business Investment Act of 1958. The fourth amendment would increase from $350,000,000 to $500,000,000 the amount which may be outstanding at any one time under Title IV of the Economic Opportunity Act of 1964.

In accordance with a procedure prescribed by Congress in 1962 (H. Rept. No. 1974, 87th Cong., 2d Sess.), a review has been made of the probable requirements through June 30, 1976, of the programs governed by the existing limitation of $4,300,000,000. These projections indicate that a limitation of $7,225,900,000 is needed for the combined activities. In order to provide a reasonable reserve for contingencies, it is recommended that the limitation amount be increased to $7,400,000,000.

The projected amount outstanding at June 30, 1976, for business loans under Title IV of the Economic Opportunity Act of 1964, as included in the figure of $7,225,900,000 cited above, is $450,700,000. Allowing in this instance also a reserve for contingencies, it is recommended that the present limitation of $350,000,000 for title IV loans be increased to $500,000,000.

Section 4(c)(4) provides a separate limitation of $500,000,000 on the amount of loans, guarantees, etc., which may be outstanding at any one time for Small Business Investment Company financing under Title III of the Small Business Investment Act of 1958. The projected amount outstanding at June 30, 1976, for these financing activities is $778,400,000. In order to provide a reserve for contingencies in this limitation too, it is recommended that the existing limitation of $500,000,000 be increased to $800,000,000.

Section 4(c)(4) provides an additional separate limitation of $500,000,000 on the amount of loans, guarantees, etc., which may be outstanding at any one time for loans to State and local development companies under Title V of the Small Business Investment Act of 1958. Projections of probable limitation requirements for these loan programs also have been made through June 30, 1976. These projections indicate that the amount outstanding as of that date will be $616,600,000, without any provision for contingencies. In order to provide a reserve for contingencies for these programs, it is recommended that the current limitation of $500,000,000 be increased to $650,000,000.

By Mr. EAGLETON:

S. 1114. A bill to authorize assistance for demonstration projects designed to develop reforms in the criminal justice system in the United States. Referred to the Committee on the Judiciary.

CRIMINAL JUSTICE REFORM ACT

Mr. EAGLETON. Mr. President, I am today introducing, for appropriate referral, the Criminal Justice Reform Act. I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. EAGLETON. Mr. President, as American participation in the war in Vietnam is being terminated, as our fighting men who have been held prisoner are coming home, I propose that we turn our energies and resources to fighting a new war—a war against crime here in the United States. It is a war that must be fought with all the determination and imagination that we can command, Mr. President, for in this war the enemy has imprisoned not thousands, but millions, of Americans in a cage of fear that leaves them incapable of carrying on the normal activities of daily life.

I make this proposal with some hesitancy, Mr. President. In recent years, we have declared war on poverty, on hunger, and on a host of other social ills. In each case, after the initial fanfare of the declaration of war and the announcement of bold new programs, there followed a steady erosion of support for that particular effort. Parenthetically, I wish only that the administration could have gotten us out of the Vietnam war with the same efficiency and dedication that it brings, for example, to the task of terminating the war on poverty.

Regardless of these reservations, I have concluded that a declaration of war on crime would not be simply another exercise in governmental hyperbole. For it seems that only in wartime do we achieve the determination and the unity of purpose among our people that are necessary if we are to check the ever-growing rise in crime.

The available evidence points to the conclusion that, on this issue, the public is indeed aware and concerned and ready to support an attack on crime. National polls have repeatedly showed that Americans rate crime as the most serious domestic problem and the one that should be given top priority by government. Perhaps of equal importance are the surveys showing that a great majority of the people even support increased government spending in this area.

Aside from these practical considerations, there is the certain knowledge of the debilitating effects of crime on the quality of life in this country and on the confidence and esteem accorded the government by its citizens. If government cannot protect us in the streets and in our homes against assault, and robbery, and rape, and murder, it might reasonably be asked, then of what value are the other accomplishments of the government here, or abroad, or in space.

It has to stop. We simply cannot go on being the prisoners of crime—working behind locked doors in offices and even in retail establishments where customers must ring for admission—fearing to venture out to cash pension checks—living with the terror that any one of us may be the next victim. And no one is immune. Certainly the recent assault on Senator STENNIS, like the shooting of Governor Wallace, and like the assassinations of major public figures in the 1960's, must have taught us that we are all vulnerable to the threat posed by crime and violence.

There are those who say that crime can be dealt with effectively only by attacking the underlying problems—lack of job opportunities, inferior education systems, discrimination against minorities, and a host of other social inequities. Improvements in these areas necessarily involve massive programs of social reform, taking many years to influence the makeup of our society. I do not believe we have to wait that long. I believe we can start now.

We can begin by making improvements in the criminal justice system which we rely upon to deal with crime problems as they exist today. There is no need to wait for the millennium to reform the criminal justice system. Its deterioration has long been noted and there is a broad consensus on the need for improvement. But this system does not have an alumni body, or a parent-teachers association, or a lobby that can be depended upon for a forceful and timely presentation of its interests. It is largely dependent upon a public awareness of its needs, and a public concern that it be equipped to deal with modern criminal problems.

Given these circumstances, there is a great deal that can be done by the Federal Government to aid local law enforcement agencies—without absorbing them. It can offer financial support and technical assistance. Perhaps most importantly, it can provide leadership to point the way for the comprehensive reforms needed to equip the entire criminal justice system to combat crime more effectively.

Substantial financial assistance is already being provided. As a nation, we are now spending close to $10 billion annually for law enforcement purposes at all levels of Government. Nearly 10 percent of that amount is dispensed by the Federal Law Enforcement Assistance Administration—LEAA—in the form of grants to States and communities under the authority of the Safe Streets Act of 1968, as amended.

More money will help, and I support President Nixon's efforts to allot additional Federal funds for law enforcement. But money alone will not suffice in the absence of imagination and leadership for reform.

It was hoped that such leadership would be forthcoming from LEAA, but the track record of LEAA shows this not to be the case. LEAA has functioned largely as a disbursing agent, with relatively little influence on the manner in which funds have been used. These conditions were perhaps inevitable, given the block grant approach and the unwieldly administrative structure for LEAA contained in the original Safe Streets Act. Improvements have been made, both in revising LEAA administration through subsequent legislation and, it is my understanding, in the imposition of better fiscal controls.

Nevertheless, the fact remains that LEAA has not served as a necessary catalyst for reform of the criminal justice system; rather, it has tended to reinforce the existing system in its traditional modes of operation.

There are exceptions to this pattern. Among the most noteworthy have been a number of programs funded through the Missouri Law Enforcement Assistance Council. This is not just my opinion as a booster of the State I represent—it is drawn from the observations of experts who do not have a parochial view.

When we speak of reform, we are talking about some of the very things that are being done in Missouri. Such things as statewide police recruitment and training standards, support for training of law-enforcement officers of all kinds, extension of parole and probation services, revision of the State's criminal code, and supplying alternatives for the care and treatment of juvenile offenders.

But, again, the experience in Missouri is an exception to the national rule. Even authorities within LEAA concede that disproportionate amounts of Federal funds have gone for arms and other equipment, or for construction of facilities that are not essential to the immediate task of reducing the amount of crime.

I am convinced, Mr. President, that no substantial improvements will come about until we approach the problems of law enforcement on a systematic basis. Indeed, it is an overstatement to refer to the current modes of enforcing criminal justice as a system. A 1969 staff report to the National Commission on the Causes and Prevention of Violence gives the following picture of the manner in which criminal justice is enforced in this country:

> A system implies some unity of purpose and organized interrelationship among component parts. In the typical American city and state, and under federal jurisdiction as well, no such relationship exists. There is instead, a reasonably well-defined criminal process, a continuum through which each accused offender may pass: from the hands of the police, to the jurisdiction of the courts, behind the walls of a prison, then back into the street. The inefficiency, fallout, and failure of purpose during this process is notorious . . .

The bill I propose today represents an effort to change this pattern. This bill is grounded on the principle that what we call the criminal justice system must be viewed in its entirety, for if any one part malfunctions, the effectiveness of the whole is impaired. An excellent police force is hampered in preventing crime if there are long delays in bringing a defendant to trial. A criminal court system that disposes of cases quickly and fairly cannot salvage a convicted defendant who is sentenced to an institution which is only a breeding place for more crime.

The bill authorizes LEAA to make grants to States and localities which elect to participate, on a strictly voluntary basis, for the purpose of bringing about comprehensive reform. Initially, grants would be limited to a few States and localities as pilot programs, with the hope that these will point the way toward implementing the program nationally.

The bill does not contemplate detailed directions from Washington as to how each State must improve its system. Rather it sets a number of goals which participating States must undertake to meet—each through its own methods, each in the light of local conditions.

These goals—which encompass the entire criminal justice system—are drawn from a variety of sources, ranging from the findings of President Johnson's Crime Commission to Chief Justice Burger's recommendations regarding the speedy disposition of criminal cases.

In this connection, I am pleased to note that the goal-oriented approach embodied in this bill as received wide acceptance since I introduced a similar bill in January 1971. In a speech delivered shortly thereafter in Pasadena, Calif., on February 19, 1971, former Attorney General Mitchell separately endorsed this concept stating:

> What is needed now is a set of national goals and standards in the operation of police forces, in the administration of courts, and in the upgrading of correction systems.
>
> I therefore propose that Federal, state and local governments join together in establishing such standards and goals. The Federal Government's role would be to provide financial support and technical expertise. The state and local governments would bring to such discussions their own professional experience. Working together, the three levels of government could agree upon a set of specific objectives to be achieved on a nationwide basis.

The Advisory Commission proposed by former Attorney General Mitchell was thereafter convened and has now nearly completed its work. It has addressed itself to the task of formulating standards and goals for law enforcement of the kind that are expressed in my bill.

I will not attempt to enumerate all of the standards contained in this bill but they cover such things as the recruitment, training, pay and retirement benefits of law enforcement personnel—criminal court operations, including the mandatory disposition of criminal cases within a fixed period after arrest, the extension of probation and parole services, correctional facilities, from local jails to State institutions, juvenile offenders, treatment of narcotics addiction, and alcoholism. For the most part, these are performance standards—that is, each State would be free to devise the most suitable way for it to meet the goals set out in the bill without Federal dictation at each step along the way, so long as these goals are being attained.

I do not suggest, Mr. President, that this bill is the final answer to the problems of fighting crime. We all know that those problems are too many and too complex to admit of a "single package" solution, but my bill does provide a starting point. Moreover, it may well be suited to amendments offered in the light of the final report of the National Advisory Commission on Criminal Justice.

Neither do I expect this bill—or any other bill—to reform human nature. Yet there are two things that we know can be done, and we know how to do them: first, law enforcement agencies can be improved so that more offenders are apprehended and brought into the criminal justice system; and, second, the entire system can be improved so that punishment will have greater meaning as a deterrent and incarceration will more nearly operate to rehabilitate.

For too long, Government at all levels has acted as though an ever-increasing rate of crime is an inevitable fact of modern life—even though the rate of increase has been greater than population growth—has exceeded the rate at which our society has become urbanized—and has gone beyond the limits of our citizens' tolerance.

We have it within our power to reverse the upward trend in crime. Continued rising crime need not be an "inevitable" fact of life in this decade if we are willing to commit against it our talent, our means, and our determination.

EXHIBIT 1

S. 1114

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 "Criminal Justice Reform Act".

DECLARATION OF POLICY

SEC. 2. The Congress finds that—

(1) in order to obtain effective control and prevention of crime, there is a need for demonstration projects to test within States and localities comprehensive criminal justice reforms, including reforms in recruiting, training, compensating, and supervising police and other law enforcement personnel, expediting and improving criminal court procedure, and strengthening correctional systems; and

(2) the recommendations of the President's Commission on Law Enforcement and the Administration of Justice, together with the planning and recommendations of a number of State planning agencies and commissions and other agencies, provide an excellent basis for the adoption of such reforms.

DEMONSTRATION PROJECTS AUTHORIZED

SEC. 3. (a) The Administrator of the Law Enforcement Assistance Administration is authorized to make grants to and to enter into contracts with States and where appropriate, with localities for the conduct of demonstration projects designed to test the effectiveness of comprehensive criminal justice reforms as described in subsection (b) of this section.

(b) A demonstration project assisted under this section may involve the testing of the following comprehensive criminal justice reforms:

(1) A State or, where appropriate, a locality will establish with respect to police and other similar law enforcement personnel—

(A) standards for recruitment which are uniform throughout the State;

(B) appropriate educational requirements for advancement which are uniform throughout the State;

(C) beginning compensation and increases in compensation which are appropriate for a professional, considering the size of the community and the cost of living in the community in which such personnel serve;

(D) a retirement system that is uniform throughout the State, and a statewide pension plan for such personnel;

(E) to the extent possible, uniform promotional policies for such personnel throughout the State;

(F) to the extent appropriate, standard operational procedures for such personnel throughout the State;

(G) lateral entry between law enforcement agencies of each locality within the State and between Federal, State, and local law enforcement agencies located within the State, with appropriate conditions on the period of initial service for such personnel; or

(H) facilities offering short-term mandatory training for all such personnel within the State.

(2) A State or a locality having jurisdiction over the trial of criminal offenses will implement such necessary reforms as will insure that (A) the trial of all such offenses (excluding juvenile offenses) will be commenced no later than sixty days from the date on which the defendant was arrested or from the date on which the defendant was charged by the authorities with such offense, whichever occurs first, and (B) the charges will be dismissed with prejudice for failure to comply with the requirements of this paragraph, except that the Administrator shall by regulation, provide for the exclusion from such sixty-day period of any periods of delay that he designates as may reasonably be necessitated in the interest of justice; and reforms under this paragraph may include, without limitation—

(i) increasing the number of judges trying criminal offenses;

(ii) improving the efficiency of criminal court procedures;

(iii) appointing professional court administrators; and

(iv) increasing personnel engaged in prosecuting and defending criminal cases.

(3) A State or, where appropriate, a locality within such State—

(A) will establish a system for classifying persons charged with, or convicted of, criminal offenses so as to permit individualized treatment and security standards appropriate to the individual;

(B) will establish a range of correctional facilities that are adequately equipped and staffed to treat the particular classifications of inmates assigned there, including small-unit, community-based correctional institutions;

(C) will provide comprehensive vocational and educational programs designed for the special needs of rehabilitating each class of persons charged with or convicted of criminal offenders;

(D) will provide separate detention facilities for juveniles, including shelter facilities outside the correctional system for abandoned, neglected or runaway children;

(E) will establish standards applicable throughout the State for local jails and misdemeanant institutions to be enforced by the appropriate State corrections agency;

(F) will provide parole and probation services for felons, for juveniles, for adult misdemeanants who need or can profit from community treatment, and supervisory services for offenders who are released from correctional institutions without parole;

(G) will establish caseload standards for parole and probation officers that vary in size and in type and intensity of treatment according to the needs and problems of the offender;

(H) will establish statewide job qualifications and compensation schedules for correctional officers, including probation and parole officers, along with a mandatory system of in-service training;

(I) will develop and operate programs of treatment and rehabilitation for persons suffering from alcoholism and drug abuse, available both to inmates and as an alternative to incarceration.

(4) A State will study by an appropriate and responsible group the consolidation of law enforcement agencies within such State best suited to the particular needs of that State; and will report to the Administrator on its findings not later than two years following the approval of its application;

(5) A State or a locality will study by an appropriate and responsible group the application of the criminal laws, as well as the propriety of the application of such laws to—

(A) alcoholism and drunkenness;

(B) narcotics addiction and drug abuse;

(C) gambling;

(D) vagrancy and disorderly conduct; and

(E) such other related areas which the State deems appropriate.

and will report to the Administrator on its findings with respect to such matters not later than two years after the approval of its application.

(c) No grant may be made and no contract may be entered into under this section unless an application is made to the Administrator at such time, in such manner, and containing or accompanied by such information as he may reasonably require.

LIMITATION

SEC. 4. No grant may be made and no contract may be entered into under section 3—

(1) for any State-wide comprehensive criminal justice reform with more than ——— States; or

(2) with more than ——— localities located in any one State, or with more than ——— localities in all States, not covered by paragraph (1) of this section.

ADDITIONAL PROVISIONS OF AGREEMENTS

SEC. 5. Any agreement evidencing a grant or contract under this Act shall contain provisions adequate to assure that—

(1) Federal funds made available under this Act will not be used to supplant state or local funds for the purpose for which the agreement is made;

(2) whenever there is a failure to comply with the provisions of that agreement, the Administrator may withhold further payments, until there is no longer such a failure;

(3) in the case of the construction of any facility—

(A) the design and cost of construction will be reasonable; and

(B) all laborers and mechanics employed by contractors or subcontractors will be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5); and

(C) in any case in which the interests of the United States will be protected:

(i) the ownership of the facility ceases to be a public agency, or

(ii) the facility ceases to be used for the purposes for which it was constructed unless there is good cause for releasing the applicant from the requirement of this clause, as determined by the Administrator,

TECHNICAL ASSISTANCE

SEC. 6. The Administrator is authorized to provide by grant, contract, or otherwise, technical assistance to a State or locality required to carry out the provisions of this Act.

PAYMENTS AND AUDIT

SEC. 7. (a) The Administrator shall pay in any fiscal year to each State or locality with which he has entered into an agreement pursuant to this Act for that fiscal year the Federal share of the cost of such agreement as determined by him.

(b) The Federal share for each fiscal year shall be 75 per centum of the cost of the programs and projects assisted under this Act.

(c) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of a grant recipient under this Act that are pertinent to the grant received.

DEFINITIONS

SEC. 8. As used in this Act—

(1) "Administration" means the Law Enforcement Assistance Administration;

(2) "Administrator" means the Administrator of the Law Enforcement Assistance Administration;

(3) "criminal offense" includes juvenile offenses, except as otherwise specified;

(4) "locality" means any city or other municipality (or two or more municipalities acting jointly) or any county or other political subdivision or State (or two or more acting jointly) having general governmental powers; and

(5) "State" means each of the several States of the Union, and the District of Columbia.

APPROPRIATIONS AUTHORIZED

SEC. 9. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of the Act.

By Mr. COOK:

S. 1115. A bill to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs. Referred to the Committee on the Judiciary.

NARCOTIC ADDICT TREATMENT ACT OF 1973

Mr. COOK. Mr. President, on February 6 of this year I introduced S. 778, a bill to amend the Controlled Substances Act to provide for the separate registration of practitioners administering narcotic drugs on a regular, treatment basis. This was the same bill which I introduced into the 92d Congress and on which the Senate Subcommittee To Investigate Juvenile Delinquency has now held 4 days of hearings in various cities throughout the country.

As a result of these hearings and further discussions between officials at the Bureau of Narcotics and Dangerous Drugs in the Justice Department and officials at the Food and Drug Administration in the Department of Health, Education, and Welfare, the two agencies primarily responsible for the implementation of the legislation, I am introducing today, for the administration, a revised version of that bill. Although

the changes that have been made are relatively minor, they merit our careful consideration and I would like to outline them here for you.

Under section 2 a specific time limit of 21 days has been added to the definition of "detoxification treatment."

The Administration of Narcotic Drugs on a regular basis for any period in excess of that would be considered "maintenance treatment" and would be subject to the provisions of the legislation. The inclusion of the arbitrary 21-day time limitation would make this definition of detoxification treatment identical to the one included in the FDA regulations governing the use of methadone, which are scheduled to go into effect on the 15th of this month. The inclusion of this limitation would allow any regularly licensed physician to administer narcotic drugs to an individual patient for a period of up to 21 days without obtaining a separate registration for that purpose. A physician wishing to take longer than the 21 days to detoxify a patient would be required to register separately and abide by the rules and regulations established for maintenance treatment programs.

The second revision was made in section 3(g)(1), where the wording was altered to give the Secretary of Health, Education, and Welfare, as well as the Attorney General, specific authority to determine the qualification of each applicant for registration with respect to the standards set by their individual departments.

The third and final revision was made in section 5 where specific references to the use and disclosure of patient records was dropped from the original language of the legislation. In his letter of transmittal to the Senate, the Attorney General takes great care to point out that the confidentiality of patient records is assumed with respect to records kept and required by law for administrative and regulatory purposes, and that the inclusion of such a specific reference could actually weaken rather than strengthen the presumption of doctor-patient confidentiality.

I have introduced this bill with these specific changes, because I feel that the revisions suggested by the administration have some merit and deserve, at the very least, our careful consideration. However, I would hope that any further discussion of this legislation will provide a thorough and specific scrutiny of all the possibilities.

By Mr. HUGHES (for himself and Mr. CLARK):

S. 1116. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes. Referred to the Committee on Commerce.

Mr. HUGHES. Mr. President, today I introduce, on behalf of myself and my distinguished colleague from Iowa (Mr. CLARK), a bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes.

A similar bill was introduced in both Houses of Congress last year, but too late in the session for adequate consideration.

The property on which the airport is located was conveyed by the U.S. Government on March 20, 1947, pursuant to section 16 of the Federal Airport Act. All conveyances made pursuant to that act contain a reversionary clause which provides that in the event the property conveyed is not developed, or ceases to be used, for airport purposes, it automatically reverts to the United States.

The purpose of this bill is to authorize the Secretary of Transportation to grant a release from this reversionary clause so that the city of Algona may use a portion of the property for industrial development. The bill contains a safeguard against abuse in that the Secretary's authority is made subject to the provisions of section 4 of the act of October 1, 1949 (50 App. U.S.C. 1622c).

This section, in effect, requires that before property is released for nonairport purposes it must be determined that the property is no longer necessary to accomplish the purpose for which it was originally transferred and is not necessary to protect or advance U.S. civil aviation. It further provides that the Secretary may impose such conditions on the conveyance as he deems necessary so as to insure that any proceeds arising from nonairport use of the property will be used for the development and maintenance of the airport.

Similar legislation was approved by the Congress in connection with airport property in Clarinda, Iowa, in 1966 (Public Law 89-649, approved October 13, 1966).

Industrial development is urgently needed, Mr. President, if we are to halt the decline of population and opportunities in the small towns of this country. An industrial park near the airport can make it possible for companies profitably to relocate in places like Algona.

In this specific case, the urgency is compounded by discussions underway at the present time in which the prospective availability of an industrial park is a prime consideration. I hope that the Commerce Committee and the Senate will give this matter prompt and favorable action.

By Mr. HARTKE:

S. 1117. A bill to amend the program of supplemental security income for the aged, blind, and disabled—established by title XVI of the Social Security Act—to provide for cost-of-living increases in the benefits provided 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 provision 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 tortuous 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 $150 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 depend for survival support upon title XVI assistance will not be compelled to endure needless deprivation and hardship.

Mr. President, conscience and consistency 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. 1117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1611 of the Social Security Act (as enacted by section 301 of Public Law 92-603) is amended—

(1) in subsection (a)(1)(A), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$1,560";

(2) in subsection (a)(2)(A), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$2,340";

(3) in subsection (b)(1), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$1,560"; and

(4) in subsection (b)(2), by inserting "(or, if greater, the amount determined under section 1617)" immediately after "$2,340".

(b) Part A of title XVI of the Social Security Act (as enacted by section 301 of Public Law 92-603) is amended by adding at the end thereof the following new section:

"COST-OF-LIVING ADJUSTMENTS IN BENEFITS

"SEC. 1617. (a) Whenever the Secretary pursuant to section 215(i) increases benefits payable under title II effective with the first month of the calendar year following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs (along with the publication of such benefit increase as required by section 215(i)(2)(D)) the supplemental security benefit rate (as determined under subsection (b)) which shall be effective (unless such increase in benefits under title II is prevented from becoming effective by section 215(i)(2)(E)) under this title for months beginning with the first month in which such increase in benefits payable under title II is effective.

"(b)(1) As used in this section, the term 'supplemental security benefit rate' means whichever of the following is the greater—

"(A) the dollar amounts (viz, $1560 and $2340, referred to in section 1611(a)(1)(A), 1611(a)(2)(A), 1611(b)(1), and 1611(b)(2)), or

"(B) the dollar amounts (referred to in such sections) which were in effect immediately prior to the most recent increase under this section.

"(2) The supplemental security benefit rate which shall be effective by reason of an increase brought about by the application of subsection (a) shall be such rate, as in effect immediately prior to such increase, plus a per centum thereof equal to the per centum of increase in benefits payable under title II brought about pursuant to section 215(i).

"(c) Notwithstanding the preceding provisions of this section, no increase shall be made in the supplemental security benefit rate, if, during the calendar year in which the determination (under subsection (a)) is made for an increase in such rate, there is enacted a law providing an increase in such rate."

SEC. 2. The amendments made by the first section of this Act shall become effective on January 1, 1974.

By Mr. PASTORE (for himself, Mr. PELL, Mr. AIKEN, and Mr. STAFFORD):

S. 1118. A bill to amend section 5034 of title 38, United States Code, to increase the number of nursing home beds in each State for war veterans in need of nursing home care. Referred to the Committee on Veterans' Affairs.

Mr. PASTORE. Mr. President, I am introducing today legislation designed to increase the number of nursing care beds that State Veterans Homes can construct with Federal assistance.

The current law limits the number of nursing care beds in State Veterans Homes to 1½ beds per 1,000 war veterans.

The proposed legislation I am offering with my colleague, Mr. PELL, and Senators AIKEN and STAFFORD, from Vermont, would increase the number of eligible beds to 2½ beds per thousand.

This change is needed, because of the 22 States in the Union that have nursing care beds at State veterans homes, only two of them—Vermont and Rhode Island—are filled to capacity and have long lists of veterans waiting to use the nursing care beds at State homes.

The effect of this legislation would increase the eligible number of beds in my State of Vermont from 80 to 133 and in Rhode Island from 177 to 295.

Since I am advised that the administration has an estimated $16 million in unobligated funds for funding Public Law 88–450, which is the authority to pay on a cost-sharing basis the construction of nursing care beds in State homes, this proposed change in the law will not need any new appropriations to fund it in the near future.

By Mr. MONTOYA (for himself and Mr. DOMENICI):

S. 1119. A bill to authorize the Secretary of the Interior to make water available for a minimum recreation pool in Elephant Butte Reservior from the San Juan-Chama unit of the Colorado River storage project. Referred to the Committee on Interior and Insular Affairs.

Mr. MONTOYA. Mr. President, the history behind the bill which Senator DOMENICI and I now introduce is set forth succinctly in a statement prepared by the Permanent Water Pool Commission for Elephant Butte Lake. I believe this statement will be of interest to committee members and staffs and others interested in this bill. Therefore, I ask unanimous consent that a copy of the statement be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MONTOYA. It must be admitted, Mr. President, that the ruling concerning Lae Powell which has handed down by U.S. District Judge Willis W. Ritter in Salt Lake City last week adversely affects the possibility that the permanent pool which this legislation envisions will ever become a reality. That decision required that the water level at Lake Powell be maintained at 100 feet below capacity. At this level—3,606 feet elevation—the amount of water which can be stored in Lake Powell is reduced by more than 50 percent.

This, in turn, reduces the amount of water available for diversion through the San Juan project into the Rio Grande in New Mexico. Once in New Mexico, this water is allocated to a variety of users. One of these users is the city of Albuquerque, the party which has agreed to relinquish its rights to 50,000 acre-feet of water needed to form the proposed pool, and to another 6,000 acre-feet annually needed to replace water lost through evaporation.

Thus, if water flowing from the Colorado is reduced, prior claims will be asserted and no water will be available for the pool. Nonetheless, I strongly believe that we should press forward and pass this bill in the hopes that the water will be made available eventually.

EXHIBIT 4

ELEPHANT BUTTE RESERVOIR—A CASE STUDY OF ALTERNATIVE WATER RESOURCE DEVELOPMENT IN AN ARID ENVIRONMENT

New Mexico, consisting of 121,666 square miles, with a population of about one million people, is one of the most delightful and pleasant areas of the United States in which to live, work, or visit. Six life zones exist in the state; the Lower Sonaran of the deserts to the Arctic-Alpine zone in the higher mountains. The climate of the state is such that outdoor recreation and sports may be enjoyed in most areas on a year-round basis.

Substantially all of the state is characterized by clear air, plenty of sunshine, magnificent vistas of mountains and deserts. There are numerous geological and archaeological sites of interest as well as picturesque villages representative of the first European settlements in the United States beginning in 1598. New Mexico is truly unique.

Water, both surface and ground, constitutes the limiting resource in the state. This paucity of water has severly limited industrial and agricultural expansion and has diminished the opportunity for development of water-based recreation. It has been estimated[2] that there is only about an average of 200 square miles of water surface available for recreation in major reservoirs in New Mexico. This represents only about one-sixth of one percent of the total surface area of the state. This limited water surface was largely created by flood control and irrigation impoundments and consequently storage levels will fluctuate widely from year-to-year with resultant limiting effects upon recreational utilization.

ESTABLISHMENT AND OPERATION OF ELEPHANT BUTTE RESERVOIR

In the early 1890's, water shortages began to occur[5] along the Rio Grande in Mesilla Valley of New Mexico and El Paso Valley of Texas, and people near Juarez in Mexico, across the river from El Paso, complained to the Mexican Government. The latter filed a claim for damages against the United States, alleging that the water shortages were due to increasing diversions from the river in Colorado and New Mexico. The United States Department of State then instituted an investigation of the situation through the International Boundary Commission, and the outcome was the "embargo" of 1896 and the Mexican Treaty of 1906. The "embargo" was an order by the Secretary of the Interior of the United States which prevented further irrigation development of any magnitude in the Rio Grande Basin in Colorado and New Mexico through suspension of all applications for rights-of-way across public lands in those States for use of Rio Grande water. With some modification in 1907, this embargo remained in effect until May, 1925, when it was lifted. Under the terms of the Mexican Treaty, the United States guaranteed to Mexico, in return for relinquishment of all claims for damages, an annual delivery in perpetuity in the Rio Grande at the head of the Mexican Canal near El Paso, of 60,000 acre-feet of water.

Both to insure fulfillment of the Mexican Treaty and to develop a reclamation project in the Elephant Butte-Fort Quitman section, the United States provided for construction of the Elephant Butte Reservoir by the Bureau of Reclamation (Act Februrary 25, 1905, 33 Stat. 814). This reservoir, with an original capacity of 2,639,000 acre-feet, together wtih other initial works for the Rio Grande Project, was completed in 1916.

Thus as a direct result of surface water shortages beginning nearly a century ago, Elephant Butte Reservoir and the Rio Grande Federal Irrigation Project, New Mexico-Texas, was constructed. It is important to remember that the conceptual planning for this development was initially done less than twenty years after the cessation of the Indian wars between the United States Army and the various Apache Tribes living in the immediate area. The concept of planning for recreational use in water resource development during this period in time was unheard of. Consequently, Elephant Butte Reservoir was constructed solely for the purpose of impounding irrigation water for the Rio Grande Federal Irrigation Project and for the storage of water to meet the obligations of the United States to the Republic of Mexico under terms of the treaty between the two nations proclaimed January 16, 1907 (34 Stat. 2953). The practice of providing for inviolate recreation pools in major impoundments evolved a number of years after the authorization and construction of Elephant Butte Dam and Reservoir.

However, the recreational use of the reservoir by the general public became significant only a few years after construction of the dam. This use, initially consisting of fishermen and water fowl hunters, has increased steadily through the years. In July, 1962 (P.L. 87–542, 76 Stat. 171) legislation was passed by the Congress of the United States providing for facilities for boaters and campers at Elephant Butte. These facilities were constructed by the Bureau of Reclamation, and immediately leased to the State of New Mexico for administration. New Mexico through its State Park and Recreation Commission created the Elephant Butte State Park. The state has maintained, enhanced, and significantly added to the original facilities provided by the initial legislation. Al-

---

Footnotes at end of article.

though these facilities have been in existence for only about eight years, they are inadequate, particularly on holiday week-ends, for the numbers of people attempting to use them. Elephant Butte State Park now has the highest use rate of any park, state or federal, in New Mexico. Use of this park exceeds one million visitor days each year.

The amount of water reaching Elephant Butte Reservoir has been declining for a number of years. This decline has been due [3] to a number of complicated factors including a coincident decline in precipitation, overdiversions in Colorado, extension of phreatophytes in the watershed, and aggradation of the river valley between Cochiti, New Mexico and Elephant Butte Reservoir. This reduction in inflow to Elephant Butte Reservoir finally created critical shortage conditions in the storage and use of waters of the Rio Grande below Elephant Butte. Beginning in 1951 the Rio Grande Project has continuously been under a strict rationing program. Deliveries to the Republic of Mexico were similarly curtailed. Table 1 [1] gives the maximum and minimum storage of water in Elephant Butte Reservior for the period 1950–1972, inclusive. This table reveals that storages of less than 50,000 acre-feet occurred during seven of the 23 years. A storage of 50,000 acre-feet in Elephant Butte has a surface area of 2,931 acres, or about 4.6 square miles. It is felt by many that this level of 50,000 acre-feet should constitute the minimum storage level of the reservoir and that below this storage the recreation utilization of the reservoir rapidly becomes impaired with resultant economic losses to the recreation industry of the state.

TABLE 1.—MAXIMUM AND MINIMUM STORAGE IN ELEPHANT BUTTE RESERVOIR, 1950–72

Year	Maximum storage in acre-feet	Stage in feet	Date	Minimum storage in acre-feet	Stage in feet	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1950	667,800	4,343.00	Mar. 16	322,700	4,314.45	Nov. 25.
1951	330,100	4,315.79	Jan. 1	17,600	4,262.30	Sept. 12.
1952	423,200	4,324.59	July 18	16,800	4,261.89	Mar. 9.
1953	378,100	4,320.49	Jan. 3	87,600	4,283.19	Sept. 12–13.
1954	173,700	4,297.30	Mar. 7–8	9,900	4,258.03	Aug. 6.
1955	160,800	4,295.46	Mar. 19	62,200	4,277.56	July 25.
1956	211,800	4,304.40	Mar. 12	22,800	4,268.44	Sept. 10.
1957	776,100	4,350.79	Dec. 31	33,100	4,272.68	Jan. 1.
1958	1,216,700	4,373.67	June 25	690,100	4,345.45	Apr. 13–14.
1959	988,800	4,362.70	Jan. 1, 19–20	516,100	4,333.19	Oct. 26–28.
1960	595,400	4,339.04	May 2	384,700	4,322.38	Oct. 11–13.
1961	452,200	4,329.10	Jan. 31	183,800	4,301.99	Sept. 5.
1962	460,900	4,329.80	May 23	219,300	4,306.49	Sept. 6.
1963	432,800	4,327.52	Jan. 31	66,500	4,282.07	Aug. 31.
1964	168,600	4,299.93	Mar. 15–16	42,100	4,275.51	Sept. 9.
1965	517,200	4,334.18	Dec. 31	88,200	4,286.75	Jan. 1.
1966	573,200	4,338.30	Feb. 1	258,400	4,311.03	Sept. 4.
1967	366,800	4,321.84	Jan. 26	122,900	4,293.03	Aug. 7.
1968	343,500	4,319.70	Feb. 29	135,700	4,295.09	Aug. 1.
1969	528,200	4,335.00	Dec. 31	238,500	4,308.77	Sept. 10.
1970	544,200	4,339.40	Feb. 8	167,400	4,303.02	Sept. 16.
1971	380,000	4,326.41	do	30,600	4,271.19	Sept. 7.
1972	301,600	4,319.02	Dec. 31	53,200	4,279.67	Aug. 19.

During two of the years where extreme low storage conditions prevailed, the United States was involved in litigation which attempted to set minimum levels at the reservoir. This litigation caused a division between the citizens of the state who were proponents of the recreation aspects versus the citizens involved with the irrigated agricultural segment who depend upon the waters of the reservoir for irrigation. Since the El Paso County Water Improvement District No. 1 of Texas has substantial rights to waters stored in Elephant Butte Reservoir, possible future litigation attempting to create a minimum level in the reservoir utilizing water owned in part by the El Paso district could cause interstate problems between New Mexico and Texas. Similarly, water belonging to the Republic of Mexico is stored in the reservoir and any impediment imposed upon the delivery of this water could cause international problems between the two nations.

RATIONALE FOR CREATING A PERMANENT POOL OF 50,000 ACRE-FEET

It has been determined [8] that the value added to the state's economy, measured as the sum of primary value added plus value added by purchases, considering the Rio Grande Basin was as follows, per acre-foot of water:

Agriculture—$44 to $51.
Recreation—$212 to $307.
Industry—$3,040 to $3,989.

It has been stated [8] and the thesis seems logical for the Rio Grande Basin at least, that the lack of water serves to limit industrial expansion except in a psychological sense, since industry can buy water rights for reasonable prices. The general aridity prevailing in the area, coupled with tenuous surface water availability from year-to-year have probably precluded consideration by industry to locating in the Rio Grande Basin.

Industries that would introduce large quantities of pollutants to either the air or water would no doubt be opposed strenuously by environmentally concerned citizens.

The foregoing coupled with an absence of basic raw materials and distance from markets will probably mean that few heavy water using industries will locate in the Rio Grande Basin in New Mexico.

The public use for recreation of New Mexico's waterways and impoundments is increasing at a much faster rate than the population increase. It is predicted as a conservative estimate [8] that the current rate of fishing-camping traffic in New Mexico will double in the next 20 years. This means that recreational use of Elephant Butte Reservoir could be between two and three million visitor days by the mid-to-late 1980's.

Outdoor recreation has experienced a phenomenal boom since the end of World War II and particularly since the Korean War. The manufacture of goods, transportation of persons and supplies, provision of facilities, and consumption spending for outdoor recreation have been estimated [4] to place outdoor recreation among the top ten major economic activities of the nation. Tourism and recreation spending in New Mexico will very probably become the most important economic factor in the state.

Current national policy concerning the new construction of impoundments is expressed in Section 1 of P.L. 89–72, the Federal Water Project Recreation Act, and reads as follows:

". . . it is the policy of the Congress . . . that . . . in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multiple purpose water resources project, full consideration shall be given to opportunities, if any, which the project affords for outdoor recreation . . ."

The foregoing clearly shows that it would be in the best economic interest of New Mexico to consider the dedication of unused and/or unappropriated waters to recreation purposes. The use of Federal reservoirs for this purpose is now national policy. A guarantee of a minimum pool of 50,000 acre-feet in Elephant Butte Reservoir would allow orderly development of recreational facilities, both public and private, to serve the public using the reservoir.

AVAILABILITY OF WATER FOR A 50,000 ACRE-FOOT PERMANENT POOL

All of the surface water in the Rio Grande Basin in New Mexico has been appropriated many years ago and is not, except by purchase of existing rights, available for creation of a permanent recreation pool in Elephant Butte Reservoir. However, as the result of the creation of the San Juan-Chama Project (Public Law 87–483; 76 Stat. 96) water from the Colorado River Basin is imported to the Rio Grande Basin for specified use by municipal and agricultural entities. Pending the negotiation of contracts and completion of construction for furnishing water supplies for tributary irrigation units as authorized by Section 8 of the aforementioned act, and subject to the availability of stored water in Heron Reservoir in excess of 100,000 acre-feet, which water is not required for existing authorized uses, a portion of this water, subject to Congressional approval, might be available for the creation of a 50,000 acre-foot permanent pool at Elephant Butte and the maintenance of that pool by replacing evaporation losses at a maximum rate of 6,000 acre-feet per year for ten years. Presumably, after ten years has elapsed, water to offset evaporation losses can be secured from other sources by retirement of existing rights.

The Elephant Butte Irrigation District of New Mexico and the El Paso County Water Improvement District No. 1 of Texas have both endorsed the creation of this permanent pool in Elephant Butte. Both districts have generously agreed to relinquish storage rights up to 50,000 acre-feet in order to cooperate with the recreational interests. This has been a generous decision on their part and has been offered in a spirit of comity and good will.

ENVIRONMENTAL IMPACT

The quality of the waters of Elephant Butte Reservoir at low storage levels have been rather extensively tested during 1971 and 1972.[6] These tests indicate that levels of the microbiological parameters are such that primary contact recreation may be safely enjoyed. Primary contact is defined as: [7]

". . . activities in which there is prolonged and intimate contact with the water involving considerable risk of ingesting water in quantities sufficient to pose a significant health hazard. Examples are wading and dabbling by children, swimming, diving, water skiing, and surfing. (Secondary contact sports include those in which contact with the water is either incidental or accidental and the probability of ingesting appreciable quantities of water is minimal.)"

However, the water at low storage levels is marginal as regards pH and turbidity. It would be expected that additional recreational use of the reservoir above levels now experienced would not significantly alter the quality of the water so as to preclude its use for primary contact sports. Additionally, a minimum storage level of 50,000 acre-feet would prevent deterioration of the water

Footnotes at end of article.

and/or biota that would begin to occur at lower storage levels.

SUMMARY

The creation of a permanent recreation pool at Elephant Butte Reservoir is in keeping with national policy. It is also greatly desirable from the standpoint of economics in that it will expand the recreation industry in New Mexico. No adverse effects to the environment will occur; rather, a significant improvement should occur. Recreational use of water in this instance represents a higher yield of return to the economy of the state and the nation than any other foreseeable uses. Finally, the establishment of this permanent pool will eliminate controversy between conflicting economic interests that have an interest in Elephant Butte Reservoir.

FOOTNOTES

[1] "Daily Gage Height in Feet and Storage in Acre-Feet of Elephant Butte Reservoir, 1950–1972", Bureau of Reclamation, Rio Grande Project, New Mexico-Texas, El Paso, Texas.

[2] Gray, James R., "Economics of Water in Recreation Development", *Eleventh Annual New Mexico Water Conference*, New Mexico State University, Las Cruces, New Mexico, 1966, pp. 70.

[3] Jetton, E. V., and Kirby, J. W., "A Study of Precipitation, Streamflow, and Water Usage on the Upper Rio Grande", *Report No. 25*, Atmospheric Science Group, Department of Civil Engineering, The University of Texas at Austin, Austin, Texas, June, 1970, pp. 176–179.

[4] "Proposed Report of the National Water Commission", Washington, D.C., November, 1972, pp. 5–137, 5–138.

[5] *Regional Planning*, "Part VI, The Rio Grande Joint Investigation in the Upper Rio Grande Basin in Colorado, New Mexico, and Texas, 1936–1937", National Resources Committee, Washington, D.C., February, 1938, pp. 8.

[6] "Water Quality Conditions—Elephant Butte Reservoir, 1971–1972", unpublished report, Bureau of Reclamation, El Paso, Texas, 1972.

[7] "Water Quality Criteria", *Report of the National Technical Advisory Committee to the Secretary of the Interior*, Washington, D.C., April 1, 1968.

[8] Wollman, Nathaniel, *et al.*, *The Value of Water in Alternative Uses*, The University of New Mexico Press, Albuquerque, New Mexico, 1962, pp. XVII, 21–22, 221–222.

Mr. DOMENICI. Mr. President, today my colleague, the distinguished senior Senator from New Mexico (Mr. MONTOYA) and I are introducing legislation concerning a matter of serious economic importance to our State of New Mexico. The bill will provide for the creation of a 50,000 acre-foot permanent pool at Elephant Butte Reservoir near Truth or Consequences, N. Mex.

The bill also provides for the maintenance of that pool by replacing evaporation losses at a maximum rate of 6,000 acre-feet per year for 10 years.

Both Senator MONTOYA and I feel that the present recreational use and the potential industrial benefit with their resultant use boosts in employment and to the economy are strong arguments in favor of passage of this measure. I should also note that passage will require no appropriation by this body as no Federal cost is attached to this legislation.

Seven years out of the past 23, the water storage level at the reservoir has fallen below 50,000 acre-feet. The business community in nearby Truth or Consequences has presented evidence that when the storage level falls below 50,000 acre-feet, there is an immediate, resultant economic loss to the recreation industry of the State.

I believe a minimum pool of 50,000 acre-feet in Elephant Butte would allow an orderly development of recreational facilities to serve the public now using the reservoir. And it appears that recreational use of water in this instance represents a higher yield of return economy of the State and the Nation than any other foreseeable use. For these reasons, I urge prompt passage of this bill.

By Mr. RIBICOFF:

S. 1120. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system. Referred to the Committee on Finance.

OPTIONAL SOCIAL SECURITY FOR GOVERNMENT WORKERS

Mr. RIBICOFF. Mr. President, today I am introducing legislation to permit Federal employees to elect to be covered by the social security system. At present these employees are denied the opportunity to participate in social security. Such a situation is inequitable. Private-sector employees get social security coverage in addition to their private pension plans. There is no reason why public employees should not also be able to receive social security benefits in addition to their Government pension.

Under the terms of my bill, new Federal employees would have 2 years from the date of their employment within which to file a certificate indicating their desire for social security coverage. Existing employees would also have a 2-year period to select coverage. In addition, in order that employees might have a further opportunity, because of changed family or financial conditions, to elect coverage, the bill provides that at the end of a 5-year period, each employee will have one further chance to elect coverage. There would be 6 months within which to elect coverage at that point.

The bill provides that the employee would pay the employee contribution to the social security trust fund by a payroll deduction.

This legislation is an extension of my proposal in the last Congress to allow public employees to participate in the medicare system through a "buy in" provision. That bill was enacted into law as an amendment to H.R. 1, the Social Security Amendments of 1972.

The legislation I am proposing today will benefit thousands of civil service workers throughout the country. Twenty thousand Government and postal workers work in Connecticut, for example, and another 10,000 residents, who are Government employees commute to New York. In addition, thousands of additional family members of these employees would directly benefit from my proposal.

I am pleased that the Connecticut membership of the American Postal Workers endorse this legislation. In addition, the bill is supported by the National Association of Letter Carriers, the National Federation of Federal Employees, the American Federation of Government Employees, and the National Association of Internal Revenue Employees.

Identical legislation has been introduced in the House by Ways and Means Chairman WILBUR MILLS.

By Mr. KENNEDY (for himself, Mr. ABOUREZK, Mr. BEALL, Mr. CLARK, Mr. HATHAWAY, Mr. MCINTYRE, Mr. MONDALE, and Mr. PELL):

S. 1121. A bill to amend the Federal Regulation of Lobbying Act, and for other purposes. Referred to the Committee on Government Operations.

AMENDMENTS TO THE FEDERAL REGULATION OF LOBBYING ACT

Mr. KENNEDY. Mr. President, on behalf of Mr. ABOUREZK, Mr. BEALL, Mr. CLARK, Mr. HATHAWAY, Mr. MCINTYRE, Mr. MONDALE, and Mr. PELL, I introduce for appropriate reference a bill to amend the Federal Regulation of Lobbying Act of 1946, the principal law governing the activities of lobbyists in their contacts with Congress.

The bill, the Federal Regulation of Lobbying Amendments of 1973, would amend the Lobbying Act in three principal respects, each of which would close a major loophole in existing law:

First, coverage of the Lobbying Act would be expanded to include individuals or organizations having as a substantial purpose the influencing of legislation. Second, coverage of the act would be expanded to include individuals or organizations expending their own funds to influence legislation. Third, coverage of the act would be expanded to include individuals or organizations seeking to influence legislation indirectly—the so-called grassroots lobbyists.

The first two provisions would apply to individuals or organizations receiving or expending more than $250 a year for lobbying activities. The third provision would apply to grassroots lobbyists receiving or spending more than $1,000 a year for such activities.

Under present law, as interpreted by the Supreme Court in its landmark decision in United States against Harriss, in 1954, the Lobbying Act is applicable only to individuals or organizations whose principal purpose is to influence legislation. In the past, many organizations have successfully avoided compliance with the act, on the ground that their lobbying activities, while substantial, are not a principal purpose of the organization. In recent years, there have been some notable abuses in this area, involving organizations and groups that have mounted enormous lobbying activities in opposition to major legislation pending in Congress, but which have not felt themselves required to comply with the provisions of the Lobbying Act, because, as they say, lobbying is not one of their principal activities.

In addition, under present law, the act is applicable only to a person who solicits, collects, or receives money or any other thing of value for lobbying activities. In interpreting this language in the Harriss Case, the Supreme Court held that persons who merely expend their own

funds are not covered by the act. However, the Court's opinion by Chief Justice Earl Warren contained an explicit invitation to Congress to act—as the Court stated, if a broader construction of the act is to become law, it is for Congress to accomplish by further legislation. The invitation is more timely than ever now, because, as Mr. Justice Jackson stated in dissent in the Harriss Case—

> More serious evils affecting the public interest are to be found in the ways lobbyists spend their money than in the ways they obtain it.

In addition, the Harriss decision interpreted the act as applicable only to the sort of lobbying that involves direct communication with Members of Congress on pending or proposed legislation. As a result, many individuals and organizations—the grassroots lobbyists—who seek to influence legislation indirectly through mass letter campaigns or other methods, are not subject to the act.

It is an anomaly that the present law does not cover lobbyists who spend substantial sums in their activities, or who expend their own funds, or who stimulate lobbying activities by others. Indeed, these three existing loopholes in the Lobbying Act are widely criticized as gaping holes through which wealthy individuals and organizations routinely pour large amounts of influence money, to the detriment of the public interest. It is time that these major loopholes were closed, and the bill I am introducing today is designed to accomplish that task.

One of the most flagrant examples of the massive circumvention that exists under the current Lobbying Act is contained in the reports—or the lack thereof—filed with respect to the lobbying activities of the National Rifle Association of America, the organization that has led the fight with such tragic effectiveness against effective gun control legislation by Congress. Certainly, no Member of Congress is in doubt over the position of the NRA on this issue. No one doubts that the NRA has dedicated itself over the years to a massive lobbying juggernaut against Federal gun control.

In the 92d Congress, for example, a number of Senators, including myself, joined in a major legislative effort to secure enactment by the Senate of an effective gun law. After extensive committee hearings and executive sessions, a modest but forward-looking bill reached the Senate floor in August 1972, outlawing the cheap handguns called Saturday night specials. After 3 days of debate on the Senate floor, including a series of futile votes to strengthen and extend the bill to cover other types of guns, the Senate passed a weakened version of the bill, only to see it die in the House of Representatives when Congress adjourned in October at the end of the session. Thanks largely to the efforts of the NRA, effective gun legislation had failed again in Congress.

Now, if we were to search the public reports of NRA lobbying activities filed with the Secretary of the Senate under the Lobbying Act, we might reasonably expect to find a record of NRA activities, naming lobbyists and listing the expenditures and receipts of the organization and its agents in their efforts to influence legislation. And we might reasonably expect this record to be commensurate with the known scope of the NRA's lobbying efforts.

But our expectations would be disappointed. The search of the record would be in vain. The National Rifle Association of America itself is not even registered as an organization that engages in lobbying. It files no reports whatever of its own receipts and expenditures for its nationwide lobbying activities.

True, the name of the NRA does appear in the current records. It is listed as the employer of one—or at the most, two—individuals with Washington area addresses, who report that they are engaged in lobbying for the organization. The records are revealing in themselves. The following table, compiled from quarterly reports filed with the Secretary of the Senate under the Lobbying Act and published in the CONGRESSIONAL RECORD, tell the story:

REPORTS RELATING TO LOBBYING BY THE NATIONAL RIFLE ASSOCIATION OF AMERICA

	Receipts	Expenditures
1971; 1st quarter: C. Richard Rogers	0	0
2d quarter: C. Richard Rogers	0	0
3d quarter: Maxwell E. Rich	$625	0
4th quarter: Maxwell E. Rich	625	0
1972; 1st quarter: Maxwell E. Rich	625	0
2d quarter: Maxwell E. Rich	625	0
3d quarter: Maxwell E. Rich	625	0
4th quarter:		
Maxwell E. Rich	625	0
Benjamin W. Fridge	4,375	$1,155.03

If the issue were not so serious, the juxtaposition between the reality we know and the reports we see would be laughable. Does anyone seriously believe that the NRA's lobbyists spent the grand sum of only $1,155.03 on lobbying throughout the 92d Congress, or that even this paltry sum was restricted entirely to the final quarter of 1972, long after the debate in Congress had ended? Does anyone seriously believe that the NRA spent nothing on lobbying throughout 1971, or that it spent nothing in the first three quarters of 1972? Does anyone believe that the only salaries or fees the NRA paid its lobbyists totaled $1,250 in 1971 or $6,875, in 1972?

The miniscule information in these phantom reports of lobbying for the NRA is useless and misleading, if not outright deceptive. With these cynical reports, the NRA has made a travesty of the Lobbying Act. Seldom has there been such a clear-cut demonstration that a major piece of legislation passed by Congress is an empty sieve, full of holes and escape hatches that allow lobbyists to stalk the Halls of Congress with their bankrolls and identities undetected.

And the NRA is only the beginning of the list. Doubtless, many similar abuses and cynical lobbying reports could be documented, matching known lobbyists and lobbying organizations with the official reports they file. Whatever teeth the Lobbying Act may have had when it was enacted in 1946, it is toothless today, and Congress cannot allow this situation to continue.

In addition to the three principal provisions outlined above, the bill I am introducing contains several other provisions to improve the overall operation of the lobbying laws, all of which were contained in Senator Mike Monroney's legislative reorganization proposals in 1966 and all of which passed the Senate in 1967, but were never enacted into law. These provisions are as follows:

The bill will transfer the responsibility for policing the Lobbying Act from the Secretary of the Senate and the Clerk of the House to the Comptroller General, who is given authority to require full disclosure of lobbying activities covered by the act, to compile and tabulate the reports, to ascertain compliance with the act, and to refer violations of the act to the Department of Justice. One of the major defects of the present act is its failure to establish clear-cut responsibilities for administration and enforcement in each of these areas, with the result that even the information that is now available under the act is often unusable.

It will require full disclosure of contingent fee arrangements for lobbying, in cases where fees are made dependent on the success or failure of the lobbying activity.

It will extend to the broadcasting media the exemption now available to newspapers and other periodicals publishing news items, editorials, or paid advertisements in the ordinary course of business.

It will repeal section 310(b) of the act, which prohibits an individual from engaging in lobbying activities within 3 years of his conviction under the act. The Supreme Court's decision in the Harriss case cast strong doubts on the constitutionality of this provision.

And, where a registrant under the act is unable to differentiate his lobbying expenses from his other expenses, the proposed legislation will require that he list his total receipts and expenditures and make a good faith allocation of the portion representing lobbying activities. One method by which the current act has been subverted in the past is the practice by which some organizations and national trade associations have simply reported their entire budgets, thereby frustrating the purpose of the act by failing to provide a meaningful breakdown between lobbying and other activities.

Each of these provisions is essential to more effective operation of the Lobbying Act. Overall, the various aspects of the bill will produce major improvements in the existing law. The proposals to expand the coverage of the act will eliminate some of the most serious current defects. They will bring within the terms of the act a significant number of individuals and organizations currently engaged in extensive lobbying activities, and will provide important new information as to the scope and intensity of efforts to influence legislation.

The purpose of the provisions is to eliminate the arbitrary exemptions for lobbyists under present law. The Federal Regulation of Lobbying Act is based on the straightforward rationale that sunlight is the best disinfectant, that disclosure is the most suitable control over lob-

bying, and that lobbying laws should identify pressures, not restrict them. That rationale applies equally to all persons engaged directly or indirectly in substantial lobbying activities, whatever the source of their funds. It in no way interferes with the fundamental right of all citizens, protected by the first amendment, to petition Congress for the enactment of legislation.

The purpose of the 1964 act was eloquently summarized by Chief Justice Warren in the Harriss case:

> Present day legislative complexities are such that individual Members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise, the voice of the people may all too easily be drowned out by the voice of special-interest groups seeking favored treatment while masquerading as proponents of the public weal. This is the evil which the Lobbying Act was designed to help prevent.
>
> Toward that end, Congress has not sought to prohibit these pressures. It has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose.

More than 25 years have now passed since Congress last acted to require information about lobbying pressures. In the intervening years, there has been a revolution in the role of Congress and in the way lobbyists operate, and it is time to meet the modern challenge of reform. Congress and the American people are entitled to know the ways our laws are made.

Last year, the Congress overwhelmingly approved major new election reform legislation, requiring comprehensive reporting and disclosure of political contributions and expenditures. The time is long overdue for us to apply the same full disclosure principle to lobbying activities, and I hope that there will be early action on the legislation I am introducing.

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

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

S. 1121

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 Regulation of Lobbying Act Amendments of 1973".

DEFINITION OF COMPTROLLER GENERAL

SEC. 2. Section 302(d) of the Federal Regulation of Lobbying Act (2 U.S.C. 261(d)) is amended to read as follows:

"(d) The term 'Comptroller General' means the Comptroller General of the United States."

MULTIPURPOSE CONTRIBUTIONS AND EXPENDITURES

SEC. 3. (a) The caption of section 305 of the Federal Regulation of Lobbying Act (2 U.S.C. 264) is amended by striking out "CLERK OF HOUSE" and inserting in lieu thereof "COMPTROLLER GENERAL".

(b) Subsection (a) of such section is amended—

(1) by striking out "Clerk" and inserting in lieu thereof "Comptroller General";

(2) by striking out "subparagraph (a) or (b) of"; and

(3) by adding at the end thereof the following new sentence: "Where contributions are received or expenditures made in part for the purposes designated in section 307 of this title and in part for any other purpose, the statements required to be filed by this subsection shall include only that part of the amount of any such contribution or expenditure which was for the purposes described in such section, except that if the relative proportions cannot be ascertained with reasonable certainty, such statements shall show total receipts and expenditures together wth an estimate by the registrant of the part thereof which was for the purposes described in such section, and an estimate of the part thereof which was for other purposes.".

(c) Title III of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 305. Statements to be filed with Clerk of House."

and inserting in lieu thereof—

"Sec. 305. Statements to be filed with Comptroller General.".

FIVE-YEAR PRESERVATION OF RECORDS

SEC. 4. (a) Section 306 of the Federal Regulation of of Lobbying Act (2 U.S.C. 265) is amended—

(1) by striking out in the caption of such section "TWO" and inserting in lieu thereof "FIVE";

(2) by striking out "Clerk" each time it appears and inserting in lieu thereof "Comptroller General";

(3) by striking out "of the House of Representatives"; and

(4) by striking out "two" and inserting in lieu thereof "five".

(b) Item 306 of title III of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out "two" and inserting in lieu thereof "five".

APPLICABILITY; SUBSTANTIAL PURPOSE CONTROLLING

SEC. 5. Section 307 of the Federal Regulation of Lobbying Act (2 U.S.C. 266) is amended to read as follows:

"PERSONS TO WHOM APPLICABLE

"SEC. 307. (a) The provisions of this title shall apply to any person (except a political committee as defined in section 301 of the Federal Election Campaign Act of 1971), who by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, receives, or expends money or any other thing of value exceeding $250 during any calendar year, a substantial part of which is used to aid, or a substantial purpose of which person is to aid, in the accomplishment of any of the following purposes:

"(1) The passage or defeat of any legislation by the Congress of the United States.

"(2) To influence, directly or indirectly, the passage or defeat of any legislation by the Congress of the United States.

"(b) The provisions of this title shall also apply to any person (except a political committee as defined in section 301 of the Federal Election Campaign Act of 1971), who by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, receives, or expends money or any other thing of value exceeding $1,000 during any calendar year, which has as its purpose the passage or defeat, or influencing the passage or defeat, by the use of any means involving direct communication by others with the Congress of the United States, of any legislation by the Congress of the United States."

CONTINGENT FEES; BROADCASTING

SEC. 6. (a) The caption of section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) is amended by striking out "SECRETARY OF THE SENATE AND CLERK OF THE HOUSE" and inserting in lieu thereof "COMPTROLLER GENERAL."

(b) Subsection (a) of section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267(a)) is amended—

(1) by striking out "Clerk of the House of Representatives and the Secretary of the Senate and shall give to those officers" and inserting in lieu thereof "Comptroller General and shall give to that officer,"; and

(2) by striking out "Clerk and Secretary" and inserting in lieu thereof "Comptroller General".

(c) Such subsection is further amended by inserting immediately after the first sentence thereof the following new sentence: "Any person required to register pursuant to this subsection in connection with any activities for which he is to receive a contingent fee shall, before doing anything for which such fee is to be paid, file with the Comptroller General, in such detail as he may require, a description of the event upon the occurrence of which the fee is contingent, and, depending on the arrangement, a statement of the amount of the fee either in terms of a dollar amount or in terms of percentage of recovery. A copy of any such contingent fee contract may be filed with the Comptroller General by any registrant, and shall be so filed at the request of the Comptroller General."

(d) The next-to-last sentence of such subsection is amended by striking out "publications in which he has caused to be published" and inserting in lieu thereof "publications, or any broadcasting stations, in or from which he has caused to be published or broadcast".

(e) Such subsection is further amended—

(1) by inserting "any licensed radio or television broadcasting station or" before "any newspaper or other";

(2) by striking out "newspaper or periodical" and inserting in lieu thereof "broadcasting station, newspaper, or periodical";

(3) by inserting "or broadcasts" before "news items, editorials,"; and

(4) by inserting "broadcasting station," before "newspaper, periodical, or individual,".

(f) Subsection (b) of such section (2 U.S.C. 267(b)) is amended by striking out "Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly," and inserting in lieu thereof "Comptroller General shall be compiled by him and transmitted to the Speaker of the House of Representatives and the President of the Senate".

(g) Title III of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 308. Registration with Secretary of the Senate and Clerk of the House."

and inserting in lieu thereof—

"Sec. 308. Registration with Comptroller General.".

ADMINISTRATION BY COMPTROLLER GENERAL

SEC. 7. (a) Sections 310 and 311 of the Federal Regulation of Lobbying Act are redesignated as sections 311 and 312, respectively.

(b) That Act is amended by inserting immediately after section 309 thereof the following new section:

"POWERS AND DUTIES OF THE COMPTROLLER GENERAL

"SEC. 310. The Comptroller General as the agent of Congress shall—

"(1) develop and prescribe methods and forms for the filing of reports and statements required by this title, and promulgate regulations for the administration of this title, including regulations to achieve full and complete disclosure of the activities with respect to which such reports and statements are required to be filed.

"(2) make available for public inspection all reports and statements filed pursuant to this title;

"(3) ascertain whether any person has failed to file any report or statement as required by this title, or has filed any incomplete or inaccurate report or statement under this title, and notify such person that he is obligated to file such report or statement in compliance with the requirements of this title;

"(4) refer to the Department of Justice for appropriate action any information coming to his attention, through complaints or otherwise, of any failure to register, or the filing of any false, improper, or incomplete registration or information under this title;

"(5) make such studies and transmit to the Congress such recommendations as the Comptroller General may deem to be necessary or appropriate to further the objectives of this title;

"(6) retain for a period of not less than five years each report and statement filed under this title, and, during such period, make such reports and statements, or true and correct copies thereof, available as public records open to public inspection; and

"(7) compile and tabulate the reports and statements filed under this title, and transmit to the Congress annually a full and complete report on the administration of this title.".

(c) Title III of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813 is amended by striking out—

"Sec. 310. Penalties.
"Sec. 311. Exemption."

and inserting in lieu thereof—

"Sec. 310. Powers and duties of the Comptroller General.
"Sec. 311. Penalties.
"Sec. 312. Exemption.".

VIOLATION OF REGULATIONS

SEC. 8. Section 311 of such Act (2 U.S.C. 269), as redesignated by section 7(a) of this Act, is amended—

(1) by striking out "(a)" in subsection (a) thereof;

(2) by inserting "or any regulation of the Comptroller General issued pursuant to this title," immediately before "shall, upon conviction," in the first sentence thereof; and

(3) by striking out subsection (b) thereof.

PARTIAL INVALIDITY

SEC. 9. If any provision of this Act, or the application thereof, to any person or circumstance is held invalid, the validity of the remainder of such Act and the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 10. This Act shall take effect on January 1, 1974.

By Mr. COOK:

S. 1122. A bill to encourage the movement in interstate and foreign commerce of recycled and recyclable materials and to reduce the quantities of solid waste materials in commerce which cannot be recycled or do not contain available recycled materials and for other purposes. Referred to the Committee on Commerce.

INTERSTATE RECYCLING EXPANSION ACT OF 1973

Mr. COOK. Mr. President, I send to the desk for appropriate referral, the Interstate Recycling Expansion Act of 1973. This legislation is aimed at eliminating totally unjustifiable federally sponsored barriers to the recycling of solid waste materials. The bill further proposes to replace those roadblocks with new incentives which will immediately stimulate interstate and foreign commerce in recyclable and recycled commodities.

When Congress overwhelmingly passed the Resource Recovery Act in 1970, it directed the Environmental Protection Agency to investigate existing Federal disincentives to solid waste recycling and to formulate actions which might be taken to encourage vitally important resource recovery from our growing mountains of solid waste. That act also suggested that Federal agencies should endeavor to utilize the vast Federal procurement network to create new markets for recyclable and recycled materials. Unfortunately, however, almost 3 years have now passed since the Resource Recovery Act became law and we find that little or nothing has been done to eliminate the existing Federal barriers to recycling or to create new, effective Federal leadership in the procurement of products manufactured from recyclable commodities.

In the meantime, the President's National Industrial Pollution Control Council, the National Materials Advisory Board of the National Academy of Sciences, the President's Council on Environmental Quality, and the Citizen's Advisory Committee to the President on Environmental Quality have all unanimously recommended that action be taken without further delay to remove the Federal roadblocks to recycling and to encourage recycling through the Federal procurement system.

Accordingly based on those recommendations, I have prepared the proposals contained in the bill now introduced, and I sincerely hope this legislation will receive early, favorable consideration in this body.

THE NATURE OF THE SOLID WASTE CRISIS

Early action on this legislative proposal is clearly necessary, because our Nation is confronted with a solid waste crisis of staggering proportions. In August 1970, the President's Council on Environmental Quality reported to Congress that solid waste materials are piling up in the United States at the alarming rate of 4.3 billion tons a year, including agricultural wastes. Industrial solid wastes alone account for 110 million tons, of which more than 15 million tons are scrap metal; 30 million tons are paper and paper product wastes; while the balance consists of waste plastics, bales of rags, and other textiles and assorted wastes. Alarmingly, the President's Council projects that these solid waste materials will double by 1980.

In addition, statistics compiled by the President's Council show that each year Americans throw away more than 250 million tons of residential, commercial, and institutional solid wastes. Collected wastes alone in these categories include 30 million tons of paper, 60 billion cans, 30 billion bottles, 4 million tons of plastics, 100 million tires, and millions of discarded automobiles and major appliances. Again, the President's Council projects that these types of solid waste will also double in volume by 1980.

The record simultaneously shows that while our domestic recycling industries have done a truly remarkable job over the years in the reclamation of waste materials and in supplying critical raw materials required in times of emergency, adverse economic pressures—promoted in large part by the Federal Government—have made it impossible for them to keep pace with the growing mountains of solid waste. For example, only 3 million tons of nonferrous scrap metals and 11 million tons of waste paper are recycled each year, meaning that, on the average, only about 40 percent of the waste nonferrous metals and 19 percent of the wastepaper available for reuse is presently being recycled here in the United States. The percentage is even lower in the textile industry where only 17 percent of the available textile wastes are being recycled.

But, the tragedy does not end there. While our Federal policies and inaction have stifled recycling growth, the evidence shows that the costs borne by State and local governments to collect, bury or burn solid waste materials have spiraled out of control. Simultaneously, available land-fill areas are evaporating and municipal incinerators are usually among the worst air pollution offenders. In New York City, which struggles daily to dispose of ever increasing piles of solid waste, collection costs alone have risen to $36 a ton, and they are still climbing.

Finally, the Federally sponsored economic impediments to increased recycling automatically mean that the drain on our precious natural resources is unnecessarily continuing at a ravenous rate. Indeed, our existing Federal policies seem to proceed on the theory that our resource abundance will last forever, and that those who deplete our forests and our mines should actually be rewarded for doing so. In 1970, the Senate Report in support of the Resource Recovery Act stated—

> This Nation has always enjoyed resource abundance and has acted as though that abundance would last forever. Studies prepared for the Senate Committee on Public Works, testimony before the Subcommittee on Air and Water Pollution, and information generally available suggest that the anticipation of continued resource abundance is not only unwise—it is folly.

And, in its 1970 environmental report, the President's Council on Environmental Quality stated—

> Population growth threatens the Nation's store of natural resources. Currently, the United States with about 6% of the world's population, uses more than 40% of the world's scarce or nonreplaceable resources and a like ratio of its energy output. Assuming a fixed or nearly fixed resource base, continued population growth embodies profound implications for the United States and the world.

An excellent example of how recycling operates to reverse this disastrous exhaustion of natural resources is found in the paper industry today. As stated above, recycled paper stock presently accounts for about 19 percent or 11 million tons of the paper industry's total raw material supplies. The industry's utilization of this recycled wastepaper thus saves 200 million trees a year. If the industry would increase that utilization to only 50 percent of its raw material requirements—that is approximately the same percentage it formerly utilized during World War II—the result would be

an annual saving of 500 million trees—a forest roughly equal to the areas covered by New England, New Jersey, New York, Pennsylvania, and Maryland.

THE FEDERALLY SPONSORED DISINCENTIVES TO RECYCLING

Recycling will never be able to play its vitally important role unless and until the Federal Government acts to remove all of the existing economic impediments to recycling which it has unfortunately and unnecessarily fostered over the years.

Among the worst impediments to recycling are grossly discriminatory rail and ocean freight rates charged for the transportation of recyclable and recycled materials. All of these rates are subject to the jurisdiction and control of either the Interstate Commerce Commission under the Interstate Commerce Act and other related regulatory statutes, or the Federal Maritime Commission under the Shipping Act.

The record involving the Interstate Commerce Commission shows that over the past several years, the Secretary of the Interior, the Commerce Department, the Office of Emergency Planning, the President's Council on Environmental Quality and the Enviromental Protection Agency as well as the recycling industry itself, have repeatedly urged the Commission to eliminate the serious discrimination in rail freight rates against recyclable and recycled materials and, until that is done, to refuse to license additional rate increases for recyclables. The Commission has responded, first, by doing absolutely nothing to eliminate the existing discriminatory rates and secondly, by licensing five successive rate increases for recyclables in the past 4 years.

Indeed, the Commission has even failed and refused to support its actions in this regard with the environmental impact statements required under the National Environmental Policy Act of 1969. This attitude caused a group of law students known as Students Challenging Regulatory Agency Procedures—SCRAP—and the Enviromnental Defense Fund to sue the Commission, and a three-judge district court in Washington ruled the Commission's behavior was a violation of the National Environmental Policy Act, While certain elements of that case are now before the Supreme Court for review, the overall picture is nevertheless clear: The Interstate Commerce Commission does not intend to rectify the existing discriminatory freight rate structure against recyclables unless Congress specifically directs it to do so and within a fixed time frame.

The Senate, of course, passed a bill last year which contained such directives, but because those directives were included in broader legislation which would have required the Federal Government to expend millions of dollars in new railroad relief, the bill did not clear the House. Generally, however, the recycling provisions were not in dispute and Congress should move soon to require both the ICC and the FMC to eliminate all unjustifiable rate discriminations against recyclable commodities without further delay and procrastination.

Another Federal disincentive to recycling is found in the Wool Products Labeling Act of 1939. That statute requires our recycled textiles, which must compete directly with foreign unlabeled, recycled textile imports to be labeled "reused" or "reprocessed." Such stigmatic labeling requirements have all but foreclosed textile recycling in the United States, whereas the record shows that formerly the textile recyclers were the strongest, most significant of our domestic recycling industries. At the very least, therefore, the "reused" or "reprocessed" labels should be replaced by the term "recycled," with the hope that today the American consumer, who more and more is making a commitment to recycling, will buy products which contain perfectly good recycled wool fibers.

Finally, the record shows that a division of the Department of Commerce has recently taken actions which would require our surviving textile recycling industry to add new superfluous weight designations to bales of wiping cloths and other rags sold exclusively for industrial utilization. Organizations such as Goodwill Industries, the Volunteers of America, and other similar textile recyclers who operate with almost no profit margin would be forced out of recycling if they have to meet these unnecessary requirements which are contrary to historic practices and even to the Government's own procurement specifications. Obviously, this should not be countenanced today when the need is to increase recycling, not to regulate recycling out of business.

THE FEDERAL PROCUREMENT PROBLEM

As stated before, in 1970, Congress urged Federal procurement agencies to take the lead in changing all procurement policies which favor the purchase of virgin products when equally good products manufactured from recycled materials are readily available. The General Services Administration, after considerable pressure exerted by the President's Council on Environmental Quality, finally took some steps in that direction by changing certain of its papers and paperboard specifications to eliminate the bias against products made with recyclable paper. Clearly, however, GSA has not gone far enough and the Public Printer and the Government Printing Office have done absolutely nothing to my knowledge.

The record simultaneously shows that today the city and State of New York and other local government bodies in various parts of the country have switched to paper products made from recycled wastepaper, and large corporations like A.T. & T., the Bank of America, Canada Dry, and scores of others have done likewise.

The time has certainly arrived, therefore, when all of the Federal procurement agencies should be directed to change their ways and where good, usable paper products are readily available at competitive prices, they should be procured. Only in this way will the Federal Government exercise the necessary leadership for the country at large.

PROPOSED LEGISLATIVE SOLUTIONS

In order to eliminate the aforementioned Federal disincentives to recycling, my bill—

First. Directs both the ICC and the FMC to investigate promptly all freight rate discriminations against recyclable commodities and within 2 years to enter appropriate orders terminating all such unreasonable discrimination in transportation charges;

Second. Directs all Federal procurement agencies to work closely with the Environmental Protection Agency in the establishment of new rules and procedures to maximize the procurement of recyclable materials and products which contain recycled materials;

Third. Amends the Wool Products Labeling Act to replace the stigmatic labels "reused" and "reprocessed" with the term "recycled"; and

Fourth. Amends the Fair Packaging and Labeling Act of 1966 to enable the domestic textile industry to continue to sell its recycled industrial rags and textiles as it has done for more than 50 years and without any new unnecessary, debilitating label requirements such as those recently sponsored by the Department of Commerce.

CONCLUSION

Each day the Congress fails to pass this simple, remedial recycling legislation, vast quantities of solid waste which should and could be recycled by the American recycling industry are continuing to pile up and plague us throughout the Nation. I, therefore, urge the Congress to consider these proposals as promptly as possible and to enact them into law at the earliest feasible date.

By Mr. MOSS:

S. 1123. A bill to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes. Referred to the Committee on Post Office and Civil Service.

DEPUTY U.S. MARSHALS

Mr. MOSS. Mr. President, I am today introducing a bill which would reclassify the positions of deputy U.S. marshal. In the last session, a similar bill was passed in amended form by both Houses of Congress but was vetoed by the President. The memorandum of disapproval stated that there was no justification for such "highly preferential treatment, which discriminates against all other government employees who perform work of comparable difficulty and responsibility and whose pay is now the same as that of deputy marshals."

I do not dispute that other Government employees may be underpaid, but that does not change the great inequities in the rates for deputy marshals. Deputy marshals presently enter their service at pay as low as GS–4—beginning at $6,882 per annum. There are presently over 1,000 deputy marshals who are receiving less than $10,000 per year, which is the entry level pay for a police private on the District of Columbia police force. I do not see how we can expect to attract and retain qualified and competent men to the deputy U.S. marshal service if we do not offer a competitive salary.

We are all aware that it is vitally important to have competent, well-trained men and women in our law forces. The

92d Congress recognized this imperative when it passed H.R. 13895 last year. I am asking this Congress to reaffirm its support for quality in law enforcement personnel by early passage of this legislation.

The work of the deputy U.S. marshals is becoming more diverse and their responsibilities are increasing. They are charged with guarding Congressmen and other important political figures, witnesses testifying before congressional committees, heads of Departments and Agencies of the Federal Government; serving civil and criminal processes issued under the authority of the United States; making arrests; transporting prisoners; seizing and disposing of property under court orders. They are called upon in emergencies to supplement other local and Federal enforcement services and to carry out hazardous duties over extended periods of time and at irregular hours. They have been killed and injured in the line of duty. There is no question that they perform valuable service to their country at great risk to themselves.

The bill I am introducing provides for reclassification of deputy U.S. marshals to GS–5—trainee entry level—GS–7, GS–9, and GS–11. Deputy U.S. marshals are presently classified at GS–4, 5, 6, 7, 8, and 9.

There are a little over 2,000 U.S. marshals and deputy U.S. marshals. This bill affects the pay only of the deputy U.S. marshals; they would receive increments of approximately $1,000 per man in annual salary.

So, the annual cost of this bill would be less than $2 million. For the potential returns in maintenance of an effective, qualified law enforcement service, I do not think that this is a particularly high investment and I hope that the 93d Congress will make it.

By Mr. MONDALE (for himself, Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. HART, Mr. HUGHES, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MCGOVERN, Mr. MOSS, Mr. NELSON, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, and Mr. WILLIAMS):

S.J. Res. 71. A joint resolution to provide for a study and evaluation of the ethical, social, and legal implications of advances in biomedical research and technology. Referred to the Committee on Labor and Public Welfare.

HEALTH SCIENCE AND SOCIETY

Mr. MONDALE. Mr. President, I introduce for myself and Senators BAYH, BROOKE, CASE, CRANSTON, HART, HUGHES, HUMPHREY, JAVITS, KENNEDY, MCGEE, MCGOVERN, MOSS, NELSON, PELL, RANDOLPH, STEVENSON, SCHWEIKER, and WILLIAMS for appropriate reference a joint resolution to create a National Advisory Commission on Health Science and Society. This is the same as Senate Joint Resolution 75, which was reported by the Committee on Labor and Public Welfare on November 29, 1971 and passed by the Senate on December 2, 1971. Unfortunately, the House did not act upon it.

Hearings by the Senate Health Subcommittee last week have again shown the need for early attention to the problems to be addressed by the Commission. We have seen that the doctrines of "informed consent" and "peer review"—in which great confidence has been expressed—are often sadly deficient in practice. Experimentation on human beings has been carried out with flagrant violations of the rights of those involved. If we have not yet developed successful techniques to protect citizens from the practice of today's medicine, how much less prepared are we to cope with the new biology and other frontiers in biomedical research and technology?

Recent advances in biology and medicine make it increasingly clear that we are rapidly acquiring greater powers to modify and perhaps control the capacities and activities of men by direct intervention into and manipulation of their bodies and minds. Certain means are already in use or at hand—for example, organ transplantation, prenatal diagnosis of genetic defects, electrical stimulation of the brain. Others await the solution of relatively minor technical problems, while still others depend upon further basic research. All of these developments raise profound and difficult questions of theory and practice, for individuals and for society.

To consider and study the ethical, social, and legal implications of advances in biomedical science and technology, I propose in this measure the creation of a 15-member Commission on Health Science and Society. This Commission would also report on the public policy implications of its findings in interim reports and in a final report at the end of its 2-year study.

Mr. President, 5 years ago I introduced a joint resolution which was essentially the same as the one I am introducing today. At that time, heart transplants were a startling new medical breakthrough. Since then, several hundred heart transplants have been performed. When I reintroduced the resolution in the 91st Congress, the first successful test tube fertilization of a human egg had just been reported.

Two years ago, Nobel Prize winner Dr. James D. Watson told the House Committee on Science and Astronautics that we will soon see the day when a baby will be conceived in a test tube and placed in a woman who will bear the child. As you may recall, Dr. Watson predicted that when such an implantation is successfully made, "All hell will break loose."

These brief comments indicate that the need for a sober and thoughtful analysis and evaluation of biomedical advance is even more urgent now than it was 5 years ago when I first proposed this Commission.

The past 5 years have seen great advances in genetics. There have been major increases in the ability to detect genetic diseases, even in fetuses still unborn. By examining fetal cells present in fluid obtained from the wombs of pregnant women, diagnosis of diseases such as Mongolism are now being made. As treatment for most genetic diseases is not now available, the diagnosis is generally followed by abortion of the affected fetus.

But major steps have been taken toward developing a technology of genetic engineering which might eventually be able to provide a cure for diseases such as hemophilia, cystic fibrosis, or diabetes. Single bacterial genes have been obtained in pure form, both by isolation from biological material and by chemical synthesis from simple building blocks. And British scientists have artificially corrected a genetic defect in mouse cells by inserting some healthy genetic material from chick embryos.

But these welcome prospects are accompanied by others which are frankly disturbing. In other areas of genetic research, work has progressed which may soon make possible the asexual production of large numbers of identical humans, by a technique known as cloning. Work is also in progress to make possible the predetermination of the sex of unborn children.

Research into the nervous system and behavior proceeds at an accelerated pace. The use of amphetamines on schoolchildren to treat the so-called hyperactive syndrome, which has been the subject of public concern and controversy, is only a foretaste of things to come as the science of psychopharmacology becomes more sophisticated. New drugs offer possibilities both for novel therapies and for novel abuses.

Behavior modification has shown great promise in training the retarded. But it has also been introduced as a standard tool for managing normal children in school districts through the country. Often parents are unaware of the use of such techniques. Yet, where they are informed of the proposed adoption of behavior modification, they have frequently voiced strenuous objection. Are they not entitled to know when their children are being subjected to such efforts to control their behavior?

There has also been increasing experimentation with electrical stimulation and with selective destruction of certain areas of the human brain, in order to achieve desired behavioral changes. After some 50,000 operations on the brains of living persons in the United States, during a 20-year period ending about 1955, the operation known as a lobotomy became thoroughly discredited. Today, there is a resurgence of interest and activity in psychosurgery.

At the University of Mississippi, a 9-year-old boy was subjected to a new form of brain surgery using electrodes to cause lesions in certain target areas of his brain. The objective was to control his behavior and make him more manageable. Repeated operations were carried out when the results were not satisfactory. After three operations and four lesions he had become "much more irritable, negativistic, and combative," and suffered "impaired memory." A fourth operation, and two more lesions, evidently satisfied the surgeon, who reported that the boy "displayed marked improvement in behavior and memory." He added that "Intellectually, however, the patient is deteriorating."

This is not an isolated case. There are an estimated 1,000 brain operations in the United States each year. In 1970, more than 100 psychosurgeons met in

Copenhagen and formed the International Society for Psychosurgery.

In the area of clinical medicine, there has been considerable effort to resolve existing confusion concerning the definition of clinical death. This confusion is due to the fact that, thanks to medical progress, the traditional signs of life—heartbeat and respiration—can now be maintained almost entirely by machines. Since many human matters depend upon the distinction between a man alive and a man dead, the importance of resolving this dilemma cannot be overemphasized.

Increasingly, State legislatures and medical societies are struggling with the concept of "death with dignity." Who shall determine when life-preserving measures are to be considered heroic or hopeless? Shall the patient, himself, decide? Who shall, if he is not competent? And who shall determine whether the patient is no longer competent?

There is great ferment now in cancer research, and we may be nearing the day when men may live out their lives without fear of this dread disease. And while on the subject of longevity, we should not negelct the claims of some scientists that the time is now ripe for an attack on the biological processes of aging. If this attack is successful, the result could be many added years of healthy life for all.

While holding forth the promise of continued improvements in medicine's abilities to cure disease and alleviate suffering, these developments also pose profound questions and troublesome problems. There are questions about who shall benefit from and who shall pay for the use of new technologies. Shall a person be denied life simply because he does not have enough money for an organ transplant?

There will be questions about the use and abuse of power. When and under what circumstances can organs be removed for transplating? Who should decide how long a person is to be kept alive by the use of a machine? Exactly what constitutes informed consent for a prospective transplant donor or recipient? The extent to which the consent is informed and voluntary may very well depend not only on what is said, but how it is said.

There will be questions about our duties to future generations and about the limits on what we can and can not do to the unborn. Is it ethical for a man and wife, each carrying a gene for a serious hereditary disease, to procreate, knowing that their children have a significant chance of acquiring the disease? Should the law enjoin certain marriages or require sterilization for such eugenic consideration? What rights do unborn children have to protect them in experiments involving genetic engineering or test tube fertilization?

We shall face questions concerning the desirable limits of the voluntary manipulations of our own bodies and minds. Some have expressed concern over the possible dehumanizing consequences of increasing the laboratory control over human procreation or of the increasing use and abuse of drugs which alter states of consciousness.

We shall face questions about the impact of biomedical technology on our social institutions. What will be the effect of genetic manipulation or laboratory-based reproduction on the human family? If laboratory fertilization can produce children for sterile couples, what will be the consequences for those orphaned or abandoned children who might otherwise have been adopted by these couples? What will be the effect on the generation gap of any further increases in longevity?

We shall face serious questions of law and legal institutions. What will the predicted new-fangled modes of reproduction do to the laws of paternity and inheritance? What would happen to the concept of legal responsibility if certain genetic diseases were shown to predispose to antisocial or criminal behavior? What would be done to those individuals with such traits?

We should expect that some people will try to have certain particularly frightening technologies banned by statute. Should this be done? Could such prohibition be effective? If effective in our country, what about other nations?

Finally, we as legislators will face problems of public policy. We shall need to be informed of coming developments, of the promises they hold forth and the problems they present, and of public attitudes in these matters. We shall need to decide what evenues of research hold out the most promise for human progress. And we shall need to help devise the means for preventing undesirable consequences.

Mr. President, as serious and as vexing as these practical questions may be, there is yet another matter perhaps more profound. The biomedical technologies work directly on man's biological nature, including those aspects long regarded most distinctively human. Thus, we should expect major challenges to our traditional image of man as this technology unfolds. The impact on our ideas of free will, birth, and death, and the good life is likely to be even more staggering than any actual manipulation performed with the new technologies. These are matters of great moment, and we urgently need to take counsel from some of our best minds.

The questions raised require the competence of persons with different training and background. Accordingly, I propose that the commission include individuals drawn from the fields of medicine, law, theology, biological science, physical science, social science, philosophy, humanities, health administration, Government, and public affairs. The physician and the philosopher, the scientist and the theologian need to get together and to educate each other. We have much to gain from their collective learning. The commission I propose will provide the vehicle for this much needed exchange.

There is also a need for improved communication between laymen and scientists. The layman needs to learn more about the prospects and implications of expected developments. The scientist needs to acquire a broader understanding of the possible ramifications of his work and the concerns of the people it will affect. The Commission I propose will provide a vehicle for such communication.

Mr. President, we can ill afford to wait until the crush of events forces us to make hasty and often ill-considered decisions. We cannot again allow events to pass us by. We face an increasing number of new and far-reaching technological possibilities, touching the very nature of man. We face the need for some wise, deliberate, and sober decisions. These questions are not going to go away or answer themselves. They will become progressively more difficult as time goes on. As Dr. Watson said in his testimony:

"If we do not think about the matter now, the possibility of our having a free choice will one day suddenly be gone."

It would be foolish to expect the Commission to provide answers to all the questions we face, but we can expect that it will provide help in making some of our difficult decisions. The findings and considered judgments of excellent minds with a wide range of experience and training will be invaluable to individuals who must struggle with the awesome responsibility of coping with these new technologies. Perhaps most importantly, the Commission could help to devise new structures, policies, or procedures for coping with new and difficult issues as they arise.

We make no prejudgments. We do not call for controls. We ask only for a thorough and thoughtful consideration of every aspect of these complex, difficult, and profound questions and problems. I and the Senators who join with me in sponsoring this resolution sincerely hope that Congress will act with dispatch in creating this much needed Commission.

The hearings on this resolution before the Senate Health Subcommittee in November 1971, have been published. They contain substantial material elaborating on my brief remarks, including a number of articles and statements on various facets of biomedical technology. We are indebted to the strong role of the Senator from Massachusetts (Mr. KENNEDY) in helping to explore these problems and chart our course for dealing with them. I urge interested persons to review those hearings.

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

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

S.J. RES. 71

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the "National Advisory Commission on Health Science and Society Resolution".

ESTABLISHMENT OF COMMISSION

SEC. 2. There is hereby established a National Advisory Commission on Health Science and Society (hereinafter referred to as the "Commission").

MEMBERSHIP

SEC. 3. (a) The Commission shall be composed of fifteen members to be appointed by the President from the general public and from individuals in the fields of medicine,

law, theology, biological science, physical science, social science, philosophy, humanities, health administration, government, and public affairs.

(b) Any vacancy in the Commission shall not affect its powers.

(c) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

(d) Eight members of the Commission shall constitute a quorum.

DUTIES OF THE COMMISSION

SEC. 4. (a) The Commission shall undertake a comprehensive investigation and study of the ethical, social, and legal implications of advances in biomedical research and technology, which shall include, without being limited to—

(1) analysis and evaluation of scientific and technological advances in the biomedical sciences, past, current, and projected;

(2) analysis and evaluation of the implications of such advances, both for individual and for society;

(3) analysis and evaluation of laws, codes, and principles governing the use of technology in medical practice;

(4) analysis and evaluation through the use of seminars and public hearings and other appropriate means, of public understanding of and attitudes toward such implications; and

(5) analysis and evaluation of implications for public policy of such findings as are made by the Commission with respect to biomedical advances and public attitudes toward such advances.

(b) The Commission shall make maximum feasible use of related investigations and studies conducted by public and private agencies.

(c) The Commission shall transmit to the President and to the Congress one or more interim reports and, not later than two years after the first meeting of the Commission, one final report, containing detailed statements of the findings and conclusions of the Commission, together with its recommendations, including such recommendations for action by public and private bodies and individuals as it deems advisable.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this joint resolution, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or members thereof.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this joint resolution.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at daily rates for individuals not in excess of the maximum daily rate for GS–18 of the General Schedule under section 5332 of such title.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

COMPENSATION OF MEMBERS

SEC. 6. Members of the Commission (other than members who are officers or employees of the Federal Government) shall receive compensation for each day they are engaged in the performance of their duties as members of the Commission at the rate prescribed for positions at level II of the executive pay schedule in section 5313 of title 5, United States Code. Members of the Commission who are officers or employees of the Federal Government shall receive no additional pay on account of their services on the Commission. All members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

APPROPRIATIONS AUTHORIZED

SEC. 7. For the purpose of carrying out this joint resolution, there are authorized to be appropriated such sums as may be necessary, but not to exceed $1,000,000 for each of the two years during which the Commission shall serve.

TERMINATION

SEC. 8. On the ninetieth day after the date of submission of its final report to the President and the Congress, the Commission shall cease to exist.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 56

At the request of Mr. GRAVEL, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 56, a bill for the relief of Michael Korhonen.

S. 59

At the request of Mr. CRANSTON, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 59, a bill to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery.

S. 284

At the request of Mr. CRANSTON, the Senator from South Dakota (Mr. McGOVERN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 284, a bill to amend chapter 17 of title 38, United States Code, to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities, and for other purposes.

S. 371

At the request of Mr. TOWER, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 371, a bill to provide that certain provisions of the Natural Gas Act relating to rates and charges shall not apply to persons engaged in the production or gathering and sale but not in the transmission of natural gas.

S. 580

At the request of Mr. PERCY, the Senator from Michigan (Mr. HART), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 580, to establish an Institute for Continuing Studies of Juvenile Justice.

S. 582

At the request of Mr. SCOTT of Pennsylvania, the Senator from Kentucky (Mr. COOK), the Senator from Florida (Mr. GURNEY), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 582, providing social services for the aged.

S. 586

At the request of Mr. DOMINICK, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of S. 586, a bill to amend the Occupational Safety and Health Act.

S. 607

At the request of Mr. KENNEDY, the Senator from California (Mr. TUNNEY) and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 607, a bill to amend the Lead Based Paint Poisoning Prevention Act, and for other purposes.

S. 626, S. 627, S. 628, AND S. 629

At the request of Mr. Moss, the Senator from Minnesota (Mr. HUMPHREY) was added as cosponsor of S. 626, to provide increases in certain annuities payable under chapter 83 of title 5, United States Code; S. 627, to provide that the first $4,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income; S. 628, to eliminate the annuity reduction made in order to provide a surviving spouse with an annuity during periods when the annuitant is not married; and S. 629, to increase the contribution by the Federal Government to the costs of Federal employees' health benefits insurance.

S. 703

At the request of Mr. BELLMON, the Senator from Kentucky (Mr. COOK) was added as a cosponsor of S. 703, a bill to control Federal spending by requiring an annual ceiling on expenditures and new obligational authority.

S. 753

At the request of Mr. SCOTT of Pennsylvania, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 753, to amend the Disaster Relief Act of 1970 with respect to eligibility for relocation assistance.

S. 799

At the request of Mr. McGOVERN, the Senators from Rhode Island (Mr. PASTORE and Mr. PELL) were added as cosponsors of S. 799, a bill to compensate Vietnam era prisoners of war.

S. 808

At the request of Mr. GRAVEL, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 808, a bill to authorize the Commissioner of Education to undertake a program to screen elementary education

school children in order to identify children with specific learning disabilities.

S. 838

At the request of Mr. TOWER, the Senators from Florida (Mr. CHILES and Mr. GURNEY) were added as cosponsors of S. 838, a bill to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the Armed Forces.

S. 842

At the request of Mr. KENNEDY, the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) were added as cosponsors of S. 842, a bill to assist the survival of publications threatened by increased postal rates, and for other purposes.

S. 847

At the request of Mr. NELSON, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 847, the School Bus Safety Act.

S. 874

At the request of Mr. JAVITS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 874, to amend the Elementary and Secondary Education Act of 1965, to provide a program for gifted and talented children.

S. 919

At the request of Mr. GURNEY, the Senator from Rhode Island (Mr. PASTORE), the Senator from Maine (Mr. HATHWAY), the Senator from Wyoming (Mr. MCGEE), the Senator from Illinois (Mr. STEVENSON), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MONDALE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Utah (Mr. MOSS), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 919, a bill to permit spouses and widows of medicare beneficiaries to purchase medicare coverage.

S. 980

At the request of Mr. JAVITS, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 980, to permit payment of extended unemployment compensation benefits to additional workers, and for other purposes.

S. 1004

At the request of Mr. MCGOVERN, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1004, a bill to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act.

SENATE JOINT RESOLUTION 18

At the request of Mr. JAVITS, the junior Senator from New York (Mr. BUCKLEY) was added as a cosponsor of Senate Joint Resolution 18, to authorize and request the President to proclaim April 29 as a day of observance of the 30th anniversary of the Warsaw ghetto uprising.

SENATE JOINT RESOLUTION 56

At the request of Mr. CRANSTON, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of Senate Joint Resolution 56, a joint resolution to authorize the President to proclaim the week containing February 12 and 14 as Afro-American History Week.

SENATE JOINT RESOLUTION 64

At the request of Mr. CHURCH, the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the Senator from Delaware (Mr. BIDEN), the Senator from Kentucky (Mr. COOK), the Senator from Mississippi (Mr. EASTLAND), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of Senate Joint Resolution 64, a joint resolution to protect religious rights in the case of abortion and sterilization procedures.

SENATE CONCURRENT RESOLUTION 14—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO NATIONAL PRIORITIES

(Referred to the Committee on Government Operations.)

Mr. HUMPHREY. Mr. President, I am introducing today a resolution on national priorities that I believe will help prevent an era of retrenchment and retreat on the pressing domestic problems in our country.

This resolution would call for a fiscally responsible Federal budget for fiscal 1974 while at the same time placing the Congress clearly on record for reduced military expenditures and a reformed tax system. It would provide a means for meeting our domestic needs in public employment, health care, urban rehabilitation, rural economic development, housing, education, and pollution control.

Mr. President, this resolution squarely challenges the assumption that, in a time of peace, the United States must have a bigger and higher military budget. It certainly is an ominous sign that at the time when the energies so long postponed by the Vietnam war should be turned to the problems at home, the fiscal year 1974 budget ushers in an era of domestic retreat.

We saw the same thing happen after the Korean war in the 1950's. We should have moved ahead then—on our domestic problems. We did not, and in part, the problems of the 1960's resulted from the indifference of the 1950's.

We simply cannot allow that to happen in the 1970's.

Under my resolution, we can take the first step toward meeting the responsibilities of the 1970's.

This resolution expresses the sense of Congress that $5 to $7 billion can be pared from the military budget in such areas as weapons procurement, weapons research and development, and by economizing in foreign assistance and space programs, and that through the elimination of unwarranted tax preferences in the internal revenue code another $5 to $7 billion in revenues can be produced.

We can use these funds to promote full employment, quality education and health care, environmental protection, safe and improved living conditions in urban and rural areas, and equal opportunity for all Americans.

We can do these things while at the same time providing, through a fiscally responsible Federal budget, for the promotion of national security, stable prices, and tax justice. We can place the additional dollars realized through the paring of nonessential defense expenditures and the elimination of unwarranted tax preferences, into programs to meet vital domestic human needs.

In short, through a rearrangement of priorities, we can fund some of the programs that the Nixon administration refuses to fund.

And, we can do so without increasing the Federal deficit.

Mr. President, I am asking for nothing more than that the Congress apply the same standards toward defense, space, military assistance, and tax subsidy budgets that the President has applied to domestic programs.

We have streets that need repair. We have critical air and water pollution problems to solve. We have poverty and racial injustice to overcome. We have massive housing and transportation problems. We have serious health needs and educational needs.

These are the priorities before us. These are the challenges of our time. And we must seize the opportunity now to target Federal funds effectively in serving these vital national interests. That is the purpose of my national priorities resolution.

I ask unanimous consent that a copy of my resolution 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:

S. CON. RES. 14

Resolved by the Senate (the House of Representatives concurring), Expressing the sense of Congress that certain economizing and tax reform measures shall be taken to assure through a fiscally responsible Federal Budget for Fiscal 1974 effective action to promote national security, stable prices, tax justice, full employment, quality education and health care, environmental protection, safe and improved living conditions in urban and rural areas, and equal opportunity for all Americans.

Whereas the Constitution of the United States places the power of the purse in the Congress of the United States and requires the President to "take care that the laws be faithfully executed," and

Whereas it is in the national interest that the Legislative and Executive Branches work in harmony to promote prosperity and opportunity for the American people, and

Whereas the priorities, revenue policies and spending decisions of Federal Government play a critical role in assuring the health of the economy, equal opportunities for all citizens, a secure national defense, and a high quality of public services, and

Whereas control of inflation requires fiscal responsibility, the avoidance of unjustified deficit spending and the most prudent use of taxpayers' dollars, and

Whereas the Federal Budget for Fiscal 1974 and future budget projections call for the expansion of military programs but the elimination or drastic reduction of some $14 billion in domestic programs annually notwithstanding the cessation of hostilities in Vietnam, and

Whereas it is estimated that the Administration's budget requests for military, foreign assistance and space budgets can be reduced by between $5 to $7 billion without danger to our national security and without jeopardizing our international commitments, and

Whereas it is recognized by Treasury Department officials, the appropriate Committees of Congress and recognized experts that minimal, long overdue tax reform can pro-

duce $5 to $7 billion in new revenues and without increasing the tax burden of the average taxpayer, and

Whereas unilateral elimination or reduction by the Executive of federal domestic programs, contrary to law, without thorough evaluation of those programs by the Legislative Branch neither serves the national interest nor complies with the spirit or letter of the Constitution; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that (1) equally rigorous economies shall be applied by Congressional review to military, foreign assistance, space programs, and unwarranted tax preferences.

(2) Congress shall set as a target for action by the relevant committees with respect to the proposed Federal Budget for Fiscal 1974.

(a) the realization of savings of $5 to $7 billion by paring unneeded weapons procurement, weapons research and weapons development, by reducing excessive forces in the military, and by economizing in foreign assistance and space programs, and (b) the elimination of unwarranted tax preferences in the Internal Revenue Code, to produce additional revenues of $5 to $7 billion.

(3) These budgetary resources—all within a fiscally responsible and non-inflationary budget ceiling as developed by the Congress—shall be redirected to promote full employment, quality education and health care for citizens, environmental protection, safe and improved living conditions in urban and rural areas, and equal opportunities for all Americans, with particular but not exclusive emphasis given to providing for health care and national insurance coverage of health care costs for all Americans, expanded public service job opportunities, improvements in public assistance and social services programs, increased federal assistance for housing, education, and the rehabilitation of urban areas, adequate law enforcement, the promotion of rural economic development, and new programs designed to improve the living conditions of American working families.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 14

At the request of Mr. SCHWEIKER, the Senator from Utah (Mr. Moss) was added as a cosponsor of Senate Resolution 14, to amend rule XXVII of the standing rules to provide for the appointment of Senate conferees.

AMENDMENT OF THE ECONOMIC STABILIZATION ACT TO ESTABLISH AN EMERGENCY RESOURCE ALLOCATION BOARD—AMENDMENT

AMENDMENT NO. 25

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. EAGLETON. Mr. President, in what may be the beginning of phase two of the fuel crisis, my office has just received at least 10 new complaints about shortages of gasoline and diesel fuel.

Most of the complaints come from independent service station operators whose supply has been reduced or cut off entirely by major oil companies. I have also heard from the Bi-State Transit Co. of St. Louis which faces a 30 percent cutback in service and a Missouri truck manufacturing company which cannot obtain enough fuel to test drive and deliver its products.

As serious as these incidents are for the companies concerned, they may be only a preview of what lies ahead for large areas of the Nation. That, at least, is the opinion of some experts who have predicted widespread gasoline shortages this summer.

In the face of this situation and the recent experience with shortages of heating fuel, I find it disturbing that no agency of the Federal Government today is empowered to act directly to assure rational and equitable allocation of resources when shortages develop.

Responding to my letter in behalf of an independent service station which is threatened with bankruptcy because it cannot get sufficient fuel, the Acting Director of the Office of Emergency Preparedness had this to say:

I emphasize that my Office has no authority to determine the allocation or distribution of petroleum products, except in the case of a declared national emergency. In our opinion, the national fuel situation does not justify a declaration of national emergency at this time.

General Lincoln of the OEP, in a recent statement to the Senate Interior Committee, indicated that there is very little any Federal agency can do to meet the problem:

In meeting problems of resource shortages affecting the civilian economy, such as disruption of petroleum supplies, the sphere of Federal action is circumscribed. A few provisions in regulatory law allow for permissive and expediting measures. For example, ICC may grant emergency permits to truckers and divert rail cars to places of need and FPC may require continuation of natural gas service during periods of curtailment upon proper showing of essential need. Except for measures such as these, there is little beyond persuasion or "jawboning" which the government may undertake to affect industrial output and distribution in commercial markets.

The long-range answer to the fuel problem, of course, is to increase overall supplies. While we wait on that development, however, some means must be found to deal with the serious problems created by existing shortages. We cannot allow independent businesses to go down the drain or vital public purposes to be shortchanged simply because no one has thought to provide the necessary authority to act.

Independent service stations account for less than 20 percent of the total retail oil business in this country, but that figure does not measure their importance in restraining the overall price level of petroleum products. In many respects, they may be the consumers' only competitive edge in this market.

In passing the Economic Stabilization Act Amendments of 1971, Congress did express some concern about this problem. It established as one of the standards for wage and price orders that they prevent gross inequities, serious market disruptions and domestic shortages of raw materials. But there the act stops. No provision is made for dealing with shortages which develop despite all precautions.

A case probably can be made that phase I and II pricing policies had something to do with our shortages of heating fuel and now of gasoline. Regardless of cause, the fact is shortages do exist and are likely to get worse before they get better. And the fact is there is no authority, short of a declaration of national emergency, to do much about it.

Today, therefore, I am introducing an amendment to the Economic Stabilization Act for myself, Senators MCINTYRE, RANDOLPH, HART, BIBLE, and MUSKIE. The amendment would provide authority to the President to establish an Emergency Resource Allocation Board which would allocate scarce resources where shortages develop to maintain and promote competition in certain industries and to assure adequate supplies to meet essential needs.

I emphasize that this amendment is a stopgap measure only and not a substitute for a comprehensive energy policy to deal with all aspects of the fuel problem. The immediacy of the problem, however, would seem to make this an imperative course.

Mr. President, I send my amendment to the desk and ask that it be referred to the appropriate committee and that the text be printed in the RECORD at this point.

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

AMENDMENT NO. 25

At the end of the bill, add the following:

SEC. 2. (a) The first sentence of section 202 of the Economic Stabilization Act of 1970 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and that in order to maintain and promote competition in certain industries and assure sufficient supplies of scarce commodities to meet the essential needs of various sections of the Nation, it is necessary to provide for the rational and equitable distribution of those commodities."

(b) The first sentence of section 203(a) of such Act is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof a new clause as follows:

"(3) provide for the establishment of priorities of use and for systematic allocation of supplies of scarce commodities in order to meet the essential needs of various sections of the Nation, and to prevent anticompetitive effects resulting from shortages of such commodities."

SENATOR RANDOLPH COSPONSORS A BILL TO CREATE AN EMERGENCY RESOURCE ALLOCATION BOARD

Mr. RANDOLPH. Mr. President, as usual our country must face a crisis—in this case an energy crisis—before effective action is taken. As we approach the 200th year since our founding, it would appear that the greatest threat to our way of life is not from external sources, but the lack of an adequate national response, by both Government and industry, to the domestic challenges within our own society.

Today, and tomorrow, as a nation, we face shortfalls in our supplies of basic energy resources and refined petroleum products, principally crude oil, natural gas, automobile gasoline, diesel fuels, and distillate fuel oils. All of these energy supplies are essential to the maintenance of the American way of life.

This course was charted, in recent years, by the failures of Government

policies and industry actions alike. More significantly, however, these shortages must be viewed as the early symptoms of an energy crisis; one that can be expected, in the next few years, to affect all forms of energy supply with sufficient force to possibly create economic chaos for our country.

Although environmental concerns have irritated the immediate problem, the events which created this energy crisis were, without question, initiated several years ago. Over the last 10 years, both shortsighted actions and failures to undertake necessary actions have led the United States down a perilous road. We have passed from the status of a net exporter of energy resources to a position with all the earmarks of a long-term heavy dependence on not only imported oil and gas but also on foreign supplies of refined products.

While the Federal Government was derelict in permitting this to happen, industry, which constantly advocates a "free market," was also derelict in not assuming the leadership role necessary to avoid the current energy crisis. Shortfalls in natural gas supplies have extended to refinery products, as witnessed in the recently reported shortages in distillate heating oil and transportation fuels.

Although petroleum serves as a direct source of energy, it also serves as the feedstock of our refineries and our petrochemical industries, which produce a wide range of conversion products such as heating oil, low-sulfur residual oil, automobile gasoline, and a wide range of other transportation fuels—essential to commerce.

In recent months, winter demands for heating oil and transportation fuels have exceeded supply. Under current constraints on refinery production, one form of refined product can only be increased at the expense of others. Consequently, at least for the short-term, energy supplies are not expected to meet consumer demands.

Now, the Congress must assume the burden and propose an Emergency Resource Allocation Board to distribute scarce energy resource among certain competing companies. This step is being undertaken because no Federal agency is empowered to act during periods of resource shortages to assure rational and equitable allocation of energy resources. The Office of Emergency Preparedness is only authorized to act when our national security is affected.

Senator EAGLETON's amendment to S. 398, the Economic Stabilization Act Amendments of 1973, which I cosponsor, would create an Emergency Resource Allocation Board to act in situations which fall short of a declaration of national emergency.

It is obvious to me that the single most significant factor contributing to the current shortages of refined petroleum products is the apparent reality that we are fast approaching the limit of our domestic refinery capacity.

Long-term national energy policies are needed which provide a climate for the expansion of domestic refinery capacity through the establishment of a national policy for the siting of domestic refineries and, possibly, other energy facilities consistent with economic, environmental, and societal needs; and the establishment of Federal economic incentive, such as accelerated depreciation, which will serve to stimulate the construction of domestic refineries in preference to foreign based operations.

I recognize that there are environment implications to the building of additional refinery capacity in the United States; however, the advantages of importing refined products may not be as great as some people think.

Unlike importing crude oil, foreign supplies of refined products cannot be replaced overnight should they be unexpectedly interrupted. There also is a far greater stability to crude oil supplies than there is for foreign refined products supplies.

Should crude oil supplies be cut off from one source, there are excellent chances of securing substitute supplies from other sources. Refinery capacity on the other hand is ordinarily tailored closely to market demands and thus cannot readily be made available to satisfy other than existing contracted markets.

To date, the hearings of the Senate's National Fuels and Energy Policy Study, being conducted by Senator HENRY M. JACKSON, have concentrated on the issues associated with assuring adequate supplies of basic energy resources, such as natural gas; however, in the months ahead, I understand the study will continue its review of the adequacy of domestic refinery capabilities. This investigation will consider anticipated short-term and long-term policy issues as the basis for legislation to stimulate the development of an expanded domestic refinery capability consistent with economic, environmental and societal needs.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 18

At the request of Mr. TOWER, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of amendment No. 18 intended to be offered to S. 371, a bill to provide that certain provisions of the Natural Gas Act relating to rates and charges shall not apply to persons engaged in the production or gathering and sale but not in the transmission of natural gas.

NOTICE OF HEARINGS ON BUDGET ESTIMATES FOR THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS OF 1974

Mr. BIBLE. Mr. President, I wish to announce the Subcommittee on the Department of the Interior and Related Agencies, Committee on Appropriations, began hearings on the budget estimates of agencies and activities under its jurisdiction on Monday, March 5, 1973. Secretary of Agriculture Earl L. Butz, in his capacity as Counselor to the President on Natural Resources, and Under Secretary John C. Whitaker, representing Secretary of the Interior Rogers C. B. Morton, were the first witnesses.

The hearings will extend through April 16 for departmental witnesses.

I have scheduled Tuesday, May 8, for hearing testimony from Members of Congress. Outside witnesses will be heard May 10 and, if necessary, May 11, 1973.

It will be appreciated if Members of Congress will advise me or the clerk of the subcommittee as soon as possible if they desire to appear.

NOTICE OF RURAL DEVELOPMENT SUBCOMMITTEE HEARINGS

Mr. CLARK. Mr. President, the Rural Development Subcommittee of the Senate Committee on Agriculture and Forestry will formally initiate its planned quarterly legislative oversight hearings on the implementation and administration of the Rural Development Act of 1972 and other Federal rural development programs on March 27 and 28, 1973.

The hearings will be in room 324, Russell Office Building, beginning at 10 a.m. each morning. Anyone wishing to testify should contact the committee clerk as soon as possible.

Mr. President, some of the provisions of the Rural Development Act of 1972 are already in operation throughout the country. Other of the provisions have not yet been implemented.

Counsel for Community Affairs, James T. Lynn, Secretary of Housing and Urban Development, Hon. Roy L. Ash, Director of the Office of Management and Budget; and Assistant Secretary of Agriculture for Rural Development, William W. Erwin have been invited to testify March 27, 1972. The subcommittee will discuss with them the extent to which each of the provisions of the Rural Development Act has been implemented; the problems and issues that have been encountered; the manner in which such issues have been resolved; and the schedule and plan for implementation of those provisions of the Act which are not yet in full operation.

As the Senators will recall, this act, which was passed unanimously by the Senate, was signed by the President on August 30, 1972. In October 1972, $500,000 was included in the Supplemental Appropriation Act as startup funding for such of the provisions as would be administered under the Consolidated Farm and Rural Development Act. Other provisions do not require new appropriations, since they merely expand the scope and authorizations of programs that the Department of Agriculture is already administering. Still other provisions will require new funding.

The subcommittee will seek information concerning both the organizational structure that is being established for administration of the different provisions of the act, and the proposed funding for each provision.

On the second day of the hearing, March 29, the subcommittee will welcome the comments and recommendations of concerned citizens and of the representatives of any groups, organizations, local governments, or other associations who are interested in rural development associations.

The hearings on both days will be open.

NOTICE OF HEARINGS ON LEGISLATION AUTHORIZING RIGHTS-OF-WAY ACROSS FEDERAL LANDS

Mr. JACKSON. Mr. President, on March 1, 1973, in connection with the introduction of S. 1081, the Federal Lands Right-of-Way Act of 1973, I announced that the Senate Interior and Insular Affairs Committee would hold hearings on Friday, March 9, on four pending legislative measures concerning the granting of rights-of-way across Federal lands. The committee originally planned to consider two other measures which would authorize construction of the trans-Alaska pipeline in specific locations, in addition to treating some technical issues regarding its right-of-way permit.

Mr. President, to clarify this matter I want now to announce that the hearing on March 9 will only deal with the substantive legislative proposals concerning the granting of rights-of-way across Federal lands. Bills to be considered are: S. 1081, S. 1056, title IV of S. 1041, and section 122 of S. 1040.

The scope of the hearing has had to be restricted because of the greater urgency of the right-of-way issue, and the fact that a single day of hearings will obviously be inadequate to deal properly with both issues.

Many people have wired and called the committee offices in the belief that the principal purpose of the hearing was to review the routing, location, and merits of the proposed trans-Alaska pipeline. S. 993 and S. 970 are indeed project authorization bills that involve issues which the Department of the Interior has requested the Solicitor General to appeal to the U.S. Supreme Court. Pending the Supreme Court's action on this appeal, however, I do not feel that these issues have the same urgency as the right-of-way question, where the Court of Appeals decision has cast a cloud over the legality of many utility rights-of-way across the public lands.

Accordingly, the hearing on March 9, will not deal with S. 993 or S. 970, nor hear testimony regarding the desirability and routing of the trans-Alaska pipeline. Later in this session I shall make an announcement regarding the schedule and format for hearings on these issues.

NOTICE OF HEARINGS CONCERNING THE MARKETING, DEVELOPMENT, AND USE OF PRESCRIPTION DRUGS

Mr. NELSON. Mr. President, I wish to announce that the Subcommittee on Monopoly of the Select Committee on Small Business will continue the hearings held in early February on the Food and Drug Administration's role in the marketing, development, and use of prescription drugs in this country.

The hearings will be held on March 14 and 22 in the Caucus Room (318) of the Old Senate Office Building starting at 10 a.m. each day.

NOTICE OF HEARINGS CONCERNING THE FARM PROGRAM AND RELATED SUBJECTS

Mr. TALMADGE. Mr. President, the Committee on Agriculture and Forestry has scheduled hearings through March 9 on the farm program and related subjects. In order to accommonate additional witnesses, the committee is scheduling further hearings March 13 and 14. They will be in room 324, Russell Office Building at 10 a.m. and anyone wishing to testify should contact the committee clerk as soon as possible.

SURFACE MINING HEARINGS SET FOR MARCH 16, 1973

Mr. JACKSON. Mr. President, I would like to advise the Members of the Senate and other interested persons that the hearings on surface mining legislation scheduled by the Committee on Interior and Insular Affairs for March 13, 14, and 15, will be continued on March 16. Many people have asked to testify and this additional day will give the committee the opportunity to hear them.

The hearings will be held in room 1202, Dirksen Senate Office Building on March 13, and in room 3110, Dirksen Senate Office Building on March 14, 15, and 16, and will begin each day at 10 a.m.

CONTINUATION OF HEARINGS ON THE "NEW FEDERALISM"

Mr. MUSKIE. Mr. President, on March 8, 14, and 15, the Subcommittee on Intergovernmental Relations of the Committee on Government Operations, will continue taking testimony on the impact of the President's proposals for a "New Federalism" on the relationship between the Federal Government and State and local governments. The hearing on March 8 will begin at 9:30 a.m. and the hearings on March 14 and 15 will begin at 10 a.m. in room 3302, Dirksen Building.

Anyone wishing to testify or submit a statement for the record should contact Mrs. Lucinda Dennis, chief clerk of the subcommittee. She can be reached by calling 202–225—4718.

ADDITIONAL STATEMENTS

THE REBUILDING AND HEALING OF VIETNAM

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Vietnam: Let Us Begin," written by Norman Cousins, and published in World magazine of recent date.

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

VIETNAM: LET US BEGIN

(By Norman Cousins)

The rebuilding and healing of Vietnam now becomes the single most important item on the American agenda. Seldom in our history has there been so overwhelming a need and so towering an occasion for the compassionate purpose of the American people. The mobilization of the nation's morally creative energies must now become our magnificent obsession. If ever we have been capable of an explosion of the imagination, that time is now.

We must do this not just because the people of Vietnam need it but because we ourselves need it. In the years and months ahead, the American people will have to come to terms with deeds carried out in our name that have no logic or sanction in our history. And we will need moral equivalents if we are not to tear ourselves to pieces in agonized retrospect.

We will have to find some way of dealing with the outpouring of facts on how the Vietnam war came into being and how it was prolonged. Truths only partially seen until now will dominate the national forums. The disclosure of the Pentagon Papers last year may only be a prelude to larger and more consequential revelations. Dozens of books will be published—and, indeed, are even now being written—about the deceit practiced on the American people by their own government in fighting a full-scale war outside the constitutional processes—a war that dimmed no lights in America and ravaged no cities but that bequeathed to future generations of Vietnamese a land pitted by more than 20 million bomb craters.

It will not be pleasant to see the documentation that our original intervention in Vietnam was more for the purpose of forestalling a test of self-determination than for the purpose of assuring it. Nor will it be edifying to learn that the United States took part in the subversion of existing governments and was involved in the assassination of the head of a state. We will be appalled, too, to learn the extent to which the Vietnam war was used as the proving grounds for new weaponry—with live ammunition being used against human beings. And in the end, it may be seen that the institutions of the American people were as much in jeopardy as the institutions of South Vietnam. All this, because there was no point at which we were courageous and wise enough to admit we were afraid of "losing face"—yet with each additional day the war was prolonged, we jeopardized further our standing in the world community.

Something is owing to the Vietnamese people. For more than thirty years, their lives and their land have been chewed up by the balance-of-power struggles of the major nations. Before the United States, it was France, and before France, the Japanese. The rest of humankind can never make right out of all the wrongs done to the Vietnamese, but what is clearly within our capability is to demonstrate that we are as determined and ingenious in matters of mercy, reconstruction, and all the processes of creative growth, as we have been in demolition and devastation. And the rehabilitation of Vietnam must come ahead of any of our own internal needs—severe though they may be.

It will be said that we cannot afford such a program. This argument is shallow and dishonest. If we could afford to spend $32,000 to kill a single Vietnamese, we can afford at least that much to rebuild the life of a single family. If we could afford $325,000 to destroy a single village, we can afford at least that much to help reconstruct the huts and the homes. If we could afford to send over bombing planes, each of which cost several millions of dollars, we can afford to send in mobile health clinics, food distribution trucks, literacy vans, sanitation and agricultural crews. In short, if we were able to spend upwards of $30 billion annually for six years in the destruction of Vietnam, we can afford to spend a fraction of that amount in helping to build a new nation.

Obviously, acts of mercy cannot be superimposed. No one knows whether North Vietnam would have any interest in accepting help from the United States. But it is likely that the spirit in which our hand is out-

stretched may have a great deal to do with the response. Certainly we ought not immobilize ourselves out of fear of being spurned.

Vietnam can become a jewel among nations. It should have the finest schools, nurseries, clinics, hospitals, science laboratories, and village communities of any nation in the Far East. All the scientific knowledge and techniques at our command should be used to restore the chemically poisoned soil and make of it once again a good earth. We can provide higher education for talented young Vietnamese in the sciences and the arts. There is no limit to what needs to be done or what we are capable of doing. Vietnam has been a symbol of almost everything that is irrational and unworkable in our world. We can help make of it a symbol for everything associated with decency, reverence of life, and human creativity.

If the only way we can do this is through sacrifice, then so much the better. Restitution for great wrongs never comes cheaply. We are lucky that we have the opportunity to make the effort. What is most fortunate of all is that we also have the opportunity to remake ourselves in the process.

TESTING AND COUNSELING CENTER FOR TROUBLED YOUNG PEOPLE AND THEIR PARENTS

Mr. TOWER. Mr. President, in June 1970, a professor of psychology and sociology at Texas Wesleyan College in Fort Worth, Tex., launched an exciting community service program—a testing and counseling center for troubled young people and their parents. Certainly there are other similar programs throughout the Nation; however, I feel the testing and counseling center at Texas Wesleyan is particularly unique in that it was developed on the sheer determination, compassion, and humanitarianism of its counselors.

The testing and counseling center was begun by Dr. Charles Hager—its director—using volunteer services of upper level psychology, sociology, and guidance and counseling students to staff the center. These students work under Dr. Hager's supervision providing group counseling sessions to young people and their parents who are experiencing difficulties in living. Everyone involved in the project is a volunteer. The testing and counseling center has no government funding and has neither requested nor received contributions from any source.

I am particularly gratified to see my constituents engaging in such altruistic activities, and commend their efforts.

Mr. President, in order that Senators may have an opportunity to study this worthwhile program, I ask unanimous consent that an article entitled "Help for Troubled Youth, Parents," published in the Fort Worth Press on Sunday, February 11, 1973, be printed in the RECORD.

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

HELP FOR TROUBLED YOUTHS, PARENTS—COUNSELING OFFERED AS SERVICE TO COMMUNITY

(By Pat Patrick)

For months, they had been at each other's throats. Mother and daughter.

Now they had entered another stage. They were past recriminations, past arguing. There was a wall of silence in the house.

The wall came tumbling down one night at a counseling session when the mother suddenly said, "I'm a stage mother.

"All these years I've been trying to make my daughter be something I wanted her to be. I've been trying to relive my life through her."

Parent and child made a new beginning that night. After a few more weeks, they quit coming to the group counseling sessions conducted at Texas Wesleyan College by Dr. Charles Hager and counselors—upper level psychology, sociology and guidance and counseling students.

Provided free as a community service, the counseling is for both troubled youth and their worried parents.

Some of the youth in the program are referred to Dr. Hager by junior and senior high school counselors and a few by "kids who themselves have been through the counseling."

"But most, about one-half, are referred by the Juvenile Probation Dept. and police Youth Division, says Dr. Hager, director of Testing and Counseling Center at TWC and also a consulting psychologist for the state Mental Health-Mental Retardation Dept.

When begun in June, 1970, the counseling service was then offered just to youth.

"We soon found out, though, that you can't deal with kids' problems without dealing with the parents, too," says Dr. Hager.

The rebellious lad that convinced Hager to conusel parents also was a boy counselors "just weren't getting through to."

One night the father was called in and during a private session began telling all the things he planned to do for his son.

Finally the boy burst out, "Dad, that's just what I don't want. I've got to do something for myself."

Five or six families, on an average, are usually involved in the group counseling, parents in one group, youth in another.

At no time are parents told by counselors what is said in the youth group or vice versa.

Dr. Hager and his counselors hope that parents and youth come to such an understanding that they can bring things said in their own groups out in the open themselves.

What goes on in the counseling sessions? Dr. Hager likes to think of it as "education in living."

"Everybody has problems with living; some just have more problems than others. They go into psychotherapy to learn how to handle these problems."

What are the problems that bring youth and parents to counseling?

"Drug abuse, running away (most common), shoplifting, indecent exposure, general rebelliousness."

Basically, the problems of today's youth are "not really any different than the ones I had when I was growing up in a small town in Colorado," says Dr. Hager.

The vehicles and technology available to youth to carry out their feelings—that is what is different.

"Ten times out of 10, the problem boils down to an alienation syndrome—nobody loves me, nobody gives a damn about me."

And parents are just as subject to that feeling as youth.

ANNOUNCEMENT OF MEETING OF U.S. GROUP OF THE INTERPARLIAMENTARY UNION

Mr. METCALF. Mr. President, the regular meeting of the United States Group of the Interparliamentary Union will be held in the old Senate Chamber, S–228, in the Capitol, at 4 o'clock tomorrow afternoon, Wednesday, March 7. All Senators who are interested are urged to attend.

ON REMOVING UNCERTAINTY

Mr. BELLMON. Mr. President, I would like to call our colleagues' attention to a very perceptive column by Holmes Alexander about the new junior Senator from Virginia (Mr. SCOTT). It provides an excellent insight into the thoughtful manner with which he approaches new problems. I will be interested in learning his conclusions as to how the Congress can best meet its fiscal responsibilities.

I ask unanimous consent to have the article printed at this point in the RECORD.

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

ON REMOVING UNCERTAINTY

(By Holmes Alexander)

WASHINGTON.—Before he came to the House in 1967 and this year to the Senate, William Scott, R-Va., was a Justice Department trial lawyer—not a prosecutor, but an advocate in civil cases—and his mind has a satisfying exactness in its address to political matters.

Dark-visioned and deliberate-spoken at 57, Scott is one who pushes logic to its terminal conclusions. For example, other senators oppose aid to Red Vietnam as an extravagance or a travesty, but Scott sees it as dangerous and provocative. He reasons that to give cash awards to an aggressor is to encourage aggression.

Likewise, Scott finds the President's ideas of the work ethic entirely incompatible with domestic handouts of any kind—and, therefore, he believes that even the squeezed-down Nixon budget is too big. Also, Scott finds an irreconcilable contradiction of language and policy in an administration which hucksters both equal opportunity and black capitalism—where's the equity there for non-blacks?

Additionally the Old Dominion junior senator is stumped when clergymen come around with strongly taken positions on battle strategy and environmental protection systems. He taught adult classes in Bible studies for 20 years at his Methodist Church in Fairfax County, and doesn't believe that military science and the economics of conservation could be well learned in theological seminaries.

Truths of such unanswerable logic are the newsman's treat in an interview with Scott. Those already mentioned might be considered as little more than axiomatic, but immaterial trivia in a capital where hard news is the preferred fare. However, at the time I called Scott had just sent over to the Library of Congress for some background material on a very newsy subject, the Office of Management and Budget (OMB) and was orally putting it through his process of thought.

He had voted with the minority in a 63–17. Senate decision that would make the OMB director and deputy director subject to confirmation. As Scott thought it out, the traditional separation of powers permits a President to make use of a confidential kitchen cabinet of subministers, such as Roy Ash and Henry Kissinger. In voting itself into this little White House circle, the Senate was on the wrong approach to the curbing of executive power. The OMB relates closely to the national purse, and might properly be considered an agency of Congress, rather than of the executive.

Scott wants to study some more before deciding firmly, but he has in mind a landmark measure that would move the Office of Management and Budget to the control of Congress. This would put it in the echelon with the Government Accounting Office and the Library of Congress, and would end all bickering over the creeping usurpation of

presidential power in the field of national finance. The governmental branch closest to the people would presumably know best in what programs the people wishes to invest, and how much.

If the country should consistently send a liberal majority to Congress, we would have a perpetual New Deal or Great Society, and become a unitary democratic socialist republic in nature, if not in name. Contrariwise, if the country sent up rational conservatives like Bill Scott, and some others who are already leaning his way, we would have the kind of self-reliant, decentralized, Phoenix-from-the ashes nation that the President envisioned on Inauguration Day.

A number of southern and western senators favor the result of presidential impoundment of funds, but aren't quite certain that it's lawful. One way to remove that uncertainty would be to make Congress the undisputed master of the budget.

1975–76 STANDARDS FOR CONTROL OF AUTO EMISSIONS

Mr. MANSFIELD. Mr. President, it is sometimes disquieting to find oneself to be a prophet. A year ago, I wrote the Senator from Maine, Mr. MUSKIE, the author of the Clean Air Act Amendments of 1970, warning that the U.S. auto companies seemed to be expending too little of their resources on finding a way to meet the emission standards laid down for 1975 in the Clean Air Act, and too much of their resources seeking to delay implementation of these standards. I also warned that the auto companies should not be given the delay they sought, nor should they be permitted to think they could get the delay at some future time. In polite terms, what I indicated was that delay would not get us compliance with the standards; it would only get more delay.

Not long after I put these views on record, Mr. Ruckelshaus, the Administrator of the Environmental Protection Agency, opened hearings on the request of the auto companies for a 1-year delay, and subsequently he denied the request. The auto companies sued in Federal court, seeking to overturn that decision. The court did not rule one way or the other, but remanded the issue back to EPA for further hearings.

That whiff of success, apparently, was enough. Shortly thereafter the president of the Ford Motor Co. proposed, in addition to the 1-year suspension, that Congress amend the law, postponing the 1975 standards until 1977. The 2 years, he said, should be used for still another study. "We cannot meet the 1975 standards," said Mr. Iacocca of Ford. He was echoed by Mr. Cole of General Motors and Mr. Ricardo of Chrysler. They threatened us with a shutdown of the auto industry in mid-1974.

If one listened only to the auto companies and the oil companies, one would be convinced that the whole effort to control automotive air pollution is ill conceived and ought to be abandoned.

Fortunately, there are other voices.

The National Academy of Science was charged by the Congress with making a study of the technical feasibility of meeting the 1975 standards, and advising the Environmental Protection Agency and the Congress of its findings. The NAS made its report 2 weeks ago. Here is what it said:

1. Four types of systems will meet the prescribed emissions standards during certification testing. There are: the modified conventional engine equipped with an oxidation catalyst, the carbureted stratified-charge engine, the Wankel engine equipped with an exhaust thermal reactor, and the diesel engine. For the catalyst system, one catalyst change must be permitted during the 50,000 mile durability testing for certification, and fuel with a suitably low level of catalyst poisons must be allowed. In determining whether vehicles mass-produced comply with an outstanding certificate of conformity under Section 206 of the Clean Air Act, provisions must be made for averaging of emission test results within a vehicle and engine class.

2. Vehicles incorporating these systems can be mass-produced in great enough volume to satisfy, in aggregate, the expected demand for vehicles in model year 1975.

3. It is important for two reasons that a suitable maintenance and inspection system be established for vehicles in use by the public.

First, there are no data concerning the deterioration of emission-control systems under conditions of customer use, and the Committee believes that the certification procedure alone is not a sufficient indicator of system durability. Even if it is demonstrated that properly maintained vehicles can comply with the standards under conditions of customer use, an adequate vehicle maintenance and inspection system will be required to assure that most vehicles will meet the standards when used by the general public; that is especially important for catalyst-equipped vehicles.

Second, if it is determined that a substantial number of any class of vehicles or engines, although properly maintained and used, is not meeting the standards in use, Section 207(c) of the Clean Air Amendments empowers the Administrator of EPA to require the manufacturer to submit a plan for remedying the nonconformity. Under such a plan, the manufacturer is required to correct only those vehicles or engines which have been properly maintained and used.

4. The average increase in sticker price due to the emissions-control systems of a catalyst-equipped vehicle is estimated to be $160 above a current (1973) vehicle and $230 above a 1970 model year vehicle. Except for the diesel engine, lesser increases are expected for the other emission-control systems, when comparing vehicles of similar size and type.

The Environmental Protection Agency, charged by the Congress with administering the act, recently completed a staff study of the feasibility of meeting the 1975 standards:

2. If EPA adopts the averaging of emissions from vehicles in a given engine family to determine compliance with the assembly line test and warranty/recall provisions of the Clean Air Act, then manufacturers currently representing at least 85% of the current U.S. market will probably be able to certify vehicles that comply with all requirements related to meeting the 1975 standards.

Parenthetically, I might point out that the total cumulative per car cost of reducing automotive emission by 90 percent is about or somewhat lower than the cost of a car air conditioner. I do not really want to get into cost in this discussion, except to say that EPA and CED figures show that the cost-benefit ratio of all air pollution abatement is better than 1-to-1. In other words, we will more than get our money back and enjoy the health and esthetic benefits of clean air to boot.

However, back to the main theme. The most interesting information developed by EPA in its feasibility study concerns its report on the Honda:

CONCLUSIONS 1975

Honda will be able to meet the 1975 standards. Honda may also be able to have 100% of their production be below the 1975 standards. EPA evaluation of the data from Honda indicates that the average emissions of the 25 stage-3 vehicles plus three standards deviations times the highest DF reported for each of the pollutants results in predicted emissions for Honda which are still below the 1975 levels.

Compared to all other manufacturers surveyed, in the judgment of the report team, Honda has developed the best 1975 system. No other manufacturer has achieved this combination of low emissions, good vehicle performance, and fuel economy. Honda has also been the boldest and most innovative. No other manufacturer is developing an alternative to the premixed charge gasoline engine for 1975 production. Most have relied heavily on their suppliers for emission control systems and hardware.

The Honda tested is slightly smaller than the subcompacts like the Vega and Pinto, but is higher powered. There is little difference in its load-carrying capacity. Moreover, computer simulation indicates that Honda system would meet the 1975 standards on all but the very largest U.S. vehicles.

I think it is fair to ask at this point what have the American auto companies been doing? Is it possible that they can give us a $200 tail fin, but not a 5-mile-an-hour crash bumper; power windows, but not air bags; 500 horses under the hood, but not emission control?

I do not believe it. And I serve notice on the United States auto companies that this Congress will not amend the Clean Air Act to permit them additional delay. Indeed, I wish I were as sanguine about the resolution of the White House on this matter. At times it has appeared that Mr. Ruckelshaus, the Administrator of the Environmental Protection Agency has had to fight off the Office of Management and Budget and White House aides in order to hew to the line which Congress marked out.

The most recent—and unsettling—evidence came no later than February 27. John Erlichman, a presidential assistant, was asked whether the White House would ask the Congress to delay the auto emission standards. His quoted reply was:

There are a lot of things about the law that we just don't think (are) common sense.

When pressed, he refused to say more, adding he had already said "300 percent" more than he should have.

I hope this is not a forerunner of pressure on Mr. Ruckelshaus to do the bidding of the White House, administratively and before this body. Should that be the case, and should Mr. Ruckelshaus be unable to withstand that pressure, we may seek legislative remedy in order to provide incentive to the auto companies to hew to the Congressional schedule for cleaning up emissions.

Certainly, if it is a matter of time, we might require the auto industry to delay model changes until the emission problem is solved. In that case, as they worked out the emissions problems with different models or model families, they could be introduced to the market.

Additionally, the Congress repealed the excise tax on autos not long ago. It did so as a matter of public policy, in order to stimulate the auto industry and the economy at large.

It might well be a matter of public policy, in view of both the measurable and immeasureable costs of air pollution, to impose an excise tax—the former tax was 7 percent—on autos which do not meet the emission standards.

There are other legislative remedies which might be devised. The point is that, in spite of the statements of the auto companies to the contrary, the evidence from unbiased sources is that they can meet the 1975 emission standards in 1975 and it is the intent of the 1970 Clean Air Act Amendments that they should do so.

Mr. President, I ask unanimous consent that an article from the Wall Street Journal of Tuesday, February 27, 1973, entitled "Aide to Nixon Hints Support for Car Firms in Their Bid To Ease 1975–76 Exhaust Rules" be printed at this point in the RECORD.

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

AIDE TO NIXON HINTS SUPPORT FOR CAR FIRMS IN THEIR BID TO EASE 1975–76 EXHAUST RULES

DETROIT.—A top Nixon aide gave the strongest hint to date that the White House might side with auto companies in their bid to modify the 1970 clean air amendments that set strict standards for control of auto emissions in 1975 and 1976 models.

Presidential assistant John Ehrlichman, in response to a question on whether the administration would ask Congress to delay the 1975–76 auto emission standards, said, "There are a lot of things about the law that we just don't think (are) common sense."

However, Mr. Ehrlichman wouldn't say whether President Nixon will seek a delay of the standards from Congress and declined to specify the White House's reservations about the current laws. Mr. Ehrlichman said he had already said "300%" more than he should have.

The presidential assistant noted that the Environmental Protection Agency is still considering auto companies' requests for a delay of the 1975 standards. "The ball is in EPA's court," he said.

Thus his remarks, made at a news conference prior to a speech here, left unclear what action the White House will take, if any.

Two weeks ago, a federal appeals court ruled the EPA should hold further hearings on its deadline for installing certain auto pollution devices. The EPA had already turned down one bid by the industry for a delay in implementing the 1975 standards. The new hearings are scheduled to start in March.

EPA officials have indicated that they think the 1970 clean air amendments are basically good legislation but that they would prefer a little more flexibility on deadlines.

The auto companies have criticized existing emissions law in the past. They complain, among other things, that the law includes specific levels to which auto pollution must be reduced and doesn't give the EPA authority to change those levels administratively. The auto companies want the EPA to have such authority. As things stand, relaxation of the levels to which pollution must be reduced requires congressional action.

POOR POSTAL SERVICE

Mr. DOMINICK. Mr. President, the editor of the Colorado Springs Sun, William J. Woestendiek, recently wrote a series of columns in that newspaper citing examples of poor postal service which had been experienced by him, members of his staff, and the public in general. In his articles, he also quotes discouraged and disgruntled postal employees who complain that they are simply unable to perform their jobs adequately under present circumstances.

Mr. President, I sympathize with the complaints expressed by Mr. Woestendiek and I concur with his conclusion that there is an urgent need for an investigation of the entire mail delivery system in this country. In fact, both the House and the Senate Post Office Committees are scheduling hearings on this subject in early March, and I am hopeful that those hearings will produce some meaningful solutions to a problem that affects all members of our society on a daily basis.

Whenever I have discussed this matter with people in Colorado, I have advised them not to send me anything by special delivery, because for reasons unknown to me that stamp seems to guarantee long delays and in some cases, even nondelivery. Unfortunately, the only way we find out about nondelivery is when I receive a followup letter by regular mail demanding to know why I have not acknowledged the previous letter.

In his column, Mr. Woestendiek discusses the various new postal machines which are supposed to speed delivery. In my opinion no postal machine has yet been developed which will equal the performance of a good employee, and I am particularly concerned that many of the good employees in the Postal Service appear to be disillusioned to the extent that morale in some post offices is at an all-time low.

The price of postage has been on the increase, while the service received has been declining, and I think it is high time that Congress took a close look at this situation and demanded that the necessary steps be taken to provide the kind of quality service that our taxpayers deserve and that the postal employees want to provide.

I commend Mr. Woestendiek for this provocative series of articles and for his efforts to develop grassroots support for postal reform. Judging from the volume of mail which has arrived in my office in response to his articles, I believe that there is a deep resentment among the people in Colorado over the unsatisfactory performance of the Postal Service. I urge all of my colleagues to read these articles and ask unanimous consent that they be placed in the RECORD.

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

THINKING OUT LOUD

(By Bill Woestendiek)

An interesting—and disturbing—thing happened the other day.

I had just started writing my column and had written the following:

Are you having problems with the postal service? It seems to me that despite all of the propaganda about improvements and one-day service, the service has been getting steadily worse.

For example, we sent some important documents to a Denver attorney on Oct. 26. He received them about 10 days later. Several times, syndicated columns from Chicago have arrived four-to-five days—air mail, special delivery—late. When we mailed a birthday box and a birthday card to our son John at the University of North Carolina, the box arrived several days ahead of the card.

Some of our friends say they've had similar problems. How about you? Let me know about them and we'll pursue the problem of poor postal service.

That's all I had written when I stopped to go through the mail. And that's when I found the letter—a letter from a mail carrier's wife. And here are some of the things she wrote:

"The Colorado Springs Post Office is a good example of how the taxpayers can get fooled with managed news. I know something about this because my husband works there as a carrier. He says there was all this rah-rah newspaper propaganda about how the mail was getting through in our last blizzard.

"That was fine as far as it went, but what the post office didn't say was that the mail has been piled up and delayed in a way that is hard to hide any more. He says that patrons on his route ask him where their important first class mail is, and he doesn't have the heart to tell them, 'probably back in some corner stacked up like the snowdrifts.'

"Talking with one of the clerks about this, he found out that on circular mail the local post office is 16 days behind now and they want the clerks—in fact they are forcing the clerks to work six days a week, 10 or 11 hours a day . . .

"The clerk . . . said that never in the 22 years he had been in the postal service had such a delay occurred . . . it was just something that did not happen. It was never allowed to happen."

"If the post office news can be made to sound good, it's all trumpeted out in the paper. If it's unfavorable in any way, it's carefully suppressed. I say let the Postal Corporation tell it the way it really is—the bad right along with the good.

"Every word I've typed here is true. Naturally, I'm not going to sign my name. My husband carries the delayed letters for a living."

The letter was signed: "A carrier's wife."

Because of that letter and because of continuing complaints about the U.S. Postal Service, Sun reporters were assigned to check out the complaints.

You saw the result in yesterday's Sun, a story by Columbus Smith and Vikki Porter to the effect that local mail sometimes is shelved for as long as two weeks because of understaffing at the local mailing unit.

Although postal officials deny any delay, it doesn't take a supersleuth to know that a delay exists. A check mailed by The Sun to Denver on Nov. 6 still had not been received as of Nov. 17. Letters sent air mail special to The Sun from Chicago have taken as long as five or six days.

"Just too much mail and not enough people," a postal source told our reporters.

What with Christmas coming up fast, something needs to be done—and soon.

The problem appears to be a serious one. Covering it up won't help any. It is essential that the people of Colorado Springs, indeed throughout the United States, get better mail service. It seems to be that the postal service has spent a lot of time telling the American public how service has improved, but very little time demonstrating any improvement.

THINKING OUT LOUD

(By Bill Woestendiek)

Postal authorities can deny mail delays all they want; the facts indicate otherwise.

All the authorities need do is talk to any of their many dissatisfied customers. In fact, all they need do is talk to their own employes.

For complaints continue to come to The Sun from both local residents upset with "pony express" service and from postal employes upset with the kind of poor service they claim they are being forced to provide.

The problem is not only local; it is a national shame. Angry postmen, tired clerks, personnel problems, the hiring freeze all combine to spell poor service.

As one of the many local residents who have written The Sun points out "our mail service should be better with new technology individual motorized trucks, and the Zip Code."

The same writer cited this incident:

"A birthday card was mailed locally and postmarked Nov. 13 for an 87-year-old woman whose birthday was Nov. 15. It was received five days later—in the same city. Historically, the pony express took six days from . . . Nebraska to . . . Nevada . . . just 112 years ago . . . without Zip Code."

Another caller told of receiving a newspaper mailed from 400 miles away 50 days later. These aren't isolated instances, there are too many complaints.

Then there's the letter from a mailhandler who, for obvious reasons, I won't identify. He has the rough job of sacking and handling mail. He writes:

"I liked your (column) very much. It is true and our people appreciate your interest."

He continues:

"I know what they are doing when they won't let me put letters through the canceling machine until they have changed the dyes at midnight. I mean the mail comes in one day but they make me wait to cancel it until the dyes for a new day are put in the machine . . . The supervisor tells me to do it this way . . . it makes the mail look a day faster than it really is. It is not fair but I do not argue about it . . ."

It seems to me that our national postal service is spending far too much money telling people how good it is when its actions belie its words.

Only the day after I wrote that our postal service was poor, I received a handsome brochure telling me all about one-day delivery. Our office receives press releases regularly singing the praises of our country's postal service, telling how much it has improved. (Incidentally, before all these improvements began I used to receive my Wall Street Journal on the day of publication. Now I almost always get it a day late).

Maybe that advertising and promotion money ought to be spent on service—that's what most of us would prefer to have.

No one is anxious to fault the delays and the problem; everyone is anxious to see something done to correct them. The people of Colorado Springs, the people of the United States deserve more efficient service. Necessary steps must be taken to provide that service. We can all understand and forgive problems if a serious effort is being made to correct them.

Christmas mail service can be a headache under the best of circumstances. With the situation as bad as it is currently, the outlook on fast Christmas mail is bleak.

There is one thing we all can do to try to help: do our Christmas shopping and mailing early—and keep our fingers crossed.

THINKING OUT LOUD

(By Bill Woestendiek)

"The Post Office is funded with public money. The public are our stockholders—they should know how good/bad the company is doing . . . I am for more publicity—as you said—and less secrecy."

The above comments on our postal service came, not from a disgruntled victim of poor mail service, but from a local post office supervisor. (See story elsewhere on this page.)

In a letter signed "Redfaced and honest about it," the supervisor expressed regret for the poor service.

"I regret the poor service, I think, even more than you," wrote the supervisor. "It is most embarrassing to search the workroom floor for some hundreds of Air Force checks that have become lost in the post office shuffle and remained undelivered for several days. It is difficult to answer the complaints and queries of patrons about such a foolish delay."

It sure is. And it is foolish of postal authorities to deny the problems or to think they can kid the public. How can they try to tell us the service is good when its shortcomings are visible daily?

For example, I received a note from Dr. Jack Paap of our town telling me of crosstown mail that has taken as long as five days. And he enclosed a copy of a letter from the University of Nebraska. The letter, dated Nov. 14 said, in part:

"For some reason or other your letter of Oct. 13, 1972, has just arrived."

One month from Colorado Springs to Omaha!

Isn't it time we, the people, started demanding an investigation of our postal service both locally and nationally. I'd suggest you write your Congressman—and hope he gets your letter. Our postal service is becoming a national disgrace.

And a lot of good, hard working postal employees, including mailhandlers, letter carriers, and supervisors are just as upset about it as the rest of us.

Another letter carrier's wife has written me about the postal service. Here are excerpts from her letter:

"We have been pleased that the P.O. backlog has been brought to the public's attention. The employes are as upset as the patrons over the slow delivery but what can they do? The carrier can only deliver what is given him to deliver, but he is the one the people ask why the mail is so slow. If people only knew the hours of overtime the postal employes are putting in, but with such a shortage of help they are still behind.

"It used to be when a carrier retired his route was bid on and someone else took it over but now it is absorbed by several adjoining routes. This may work fine in a town whose growth is stationary, but can you imagine how it works in a city growing as fast as ours?

"What would help the most would be to put some men experienced in postal problems in the high offices in the postal corporation instead of big business men who are completely unfamiliar with postal problems . . .

"Keep up the good work—we are behind you!"

Almost everyone, it seems, has experienced problems because of postal delays. These problems become even more serious when money is involved, when mortgage payments are not delivered on time, when homeowners have to pay late costs because the postal service didn't do its job.

The letters complaining about late deliveries of checks continue to come to The SUN. A local woman wrote of her experience with her gas bill.

She mailed her payment on Nov. 15. On the 27th, she received notice of a shut off for non-payment. On the 28th, her check reached the gas company. Her letter took 12 days to travel two miles.

Why?, she asks. What would have happened if the shut off notice had been late and her gas turned off this week in freezing temperatures (she has five children)?, she asks.

Good questions. The postal service is letting many people down. And the Federal Times, a weekly newspaper for civilians in government, reported this week that the Postal Service is expected to cut 225,000 employes over the next three years.

"Less people are needed," a postal authority in Washington is quoted as saying.

I don't know about that. I do know that better service is needed—and badly.

THINKING OUT LOUD

(By Bill Woestendiek)

Believe it or not, in yesterday morning's mail, just as I started to write something about our poor postal service, I received a copy of the U.S. Postal Service's first annual report, together with a statement from Postmaster General E. T. Klassen which he "thought might be of interest to you."

It sure is. And I would imagine your reaction to some of Klassen's statements would be similar to mine. They really need no comment.

"We have pursued two major goals: to improve the quality and reliability of mail services and reduce cost," Klassen said.

He added that 94 per cent of first-class mail destined for local delivery is being delivered the next day.

"Another indicator of improved service was a reduction in the average time for delivery," he stated. "Without regard to the time of day deposited or to the distance sent, the average time (of delivery) for first-class letters decreased from 1.7 to 1.6 days."

That's what the report says. But speaking of reduced costs, let me get on to what I had started writing when the mail arrived on my desk and the postal report caught my eye.

Did you know that the Postal Service has spent more than $145,000 to tell us that airmail and first class mail aren't the same thing?

Didn't you know that already? And wouldn't you rather the Postal Service spent that kind of money improving is service instead of trying to sell airmail stamps?

The cost of the slick mail advertisement that has been sent to hundreds of thousands of people—at a time when the Postal Service is trying to cut costs faster than it delivers letters—is staggering.

The breakdown of the airmail add costs, according to figures dug up by Mike Royko of the Chicago Daily News, includes $35,000 for a list of names obtained from American Express; $50,000 for printing; and $50,000 for handling and delivery.

Those figures do not include the fee paid to the big New York advertising agency handling the campaign (and you know they don't work for peanuts).

What a waste of time and money. If the people on that expensive mailing list didn't know the difference between first class and air mail, it would be only because they have learned that neither one is very fast anyway. And air mail special delivery is slower yet.

With that kind of thinking—and spending—at the top, is it any wonder that our postal service is slow and that its morale is bad—regardless of the slickness of that first annual report?

Arthur Pusch of our town mailed us a note the other day with much more success than a previous letter he had mailed to the Tuberculosis Association. This was his comment:

"Here's one for our 'Improved Postal Services:'

"On Dec. 18, I sent a contribution to the Colorado Tuberculosis Association, here in Colorado Springs, and yesterday, Dec. 22, the letter was returned to me. The stamp hadn't even been canceled. I'm sending it on again today hoping it will get the half dozen blocks from my house to their address on Cascade."

THINKING OUT LOUD

(By Bill Woestendiek)

Has the postal service finally hit bottom?

The examples of poor postal service continue to come to our attention but I think

Mrs. Iris Sandefur of our town has contributed the best—or worst—experience yet.

Can you top this? (Her letter follows:)

"I thought you would like to know that the Post Office must have gotten to the bottom of the mail pile. We received a package mailed three years ago at Christmas time from Auburn, Calif. We received it the day after your column on the poor mail service."

A West Virginia senator has asked for a congressional investigation. A Texas congressman is demanding some answers. Across our nation everyone is asking questions about our poor postal service.

Questions need to be asked. I'd urge all of you who share our concern to write Senator Peter Dominick and/or Sen. Floyd Haskell and Rep. William Armstrong in Washington to urge them to support such an investigation.

The complaints continue. Mrs. James N. Day of our town called yesterday to say she could top the story of the Christmas package that took three years to get here from California. It seems that Mrs. Day subscribes to her hometown paper in Kingman, Kansas, a distance of approximately 500 miles.

Well, she recently received the Dec. 29 edition of the paper. As a matter of fact she received the Dec. 29 issue on Dec. 13. That's the Dec. 29, 1968 issue, received on Dec. 13, 1972.

Again, can you top that?

Really, the three-year packages, the four-year newspapers, the 10-day letters and even the sad but funny story of the unpleasant pheasant that took so stinking long to get here (printed in yesterday's Sun) are, although aggravating, not as big a problem as the delays in delivery of time payments, utility bills, etc. Over and over we get complaints from citizens who have paid their bills, only to get dunning letters or threats of disconnected services because the checks have been delayed in the mails.

I've experienced the same problem twice in recent weeks. Only yesterday American Express wrote for the second time requesting payment of a statement for the month of November, paid by me in early December.

It's frustrating, aggravating, and disturbing—to people in Colorado Springs and across the nation. It's also frustrating to many postal employes who seem to be trying to do what may be an impossible job.

So it is time for a Congressional investigation of our Postal Service from the top down, to find out the reasons for the inadequacies, to find out why the Postal Service is spending so much money on advertising and providing such poor service, to come up with a solution to this important problem.

Write your Senators and your congressman; ask them to support such an investigation.

There are undoubtedly some who will gripe about the increased tight security at our airport and airports across the country.

However, I am sure that most of us, however much we dislike the discomfort of having our bags and persons searched, appreciate the reason for the security. After all, a few minutes of bag searching is small price to pay for safety from skyjackers.

I do think, however, that travelers and visitors have the right to expect courtesy from the security guards who are handling the mob scenes at many of our airports.

Fortunately, that is not a problem at our airport, but at Stapleton Airport in Denver the other night I witnessed a very rude and indifferent performance by a security man who seemed to enjoy pushing people around. That's an added headache we don't need.

There is, of course, nothing funny about skyjacking. But I'm sure you all enjoyed the anecdote in The Sun the other day, as told by a Sun reporter who was observing the new security at our Municipal Airport.

It seems that a woman passenger carrying a baby was preparing to board an aircraft. As described by one of the agents:

"One woman advised me not to put my hand in that didie bag. But I had to search it. She said I'd be sorry.

"She was right."

THINKING OUT LOUD

(By Bill Woestendiek)

"Mail service is deteriorating and that is a fact that can't be hidden behind promotions and gimmicks. If Ford or General Motors made claims about their automobiles that are as far out of line as the Postal Service makes about their deliveries, the consumers would march on Detroit."

These comments were made recently by Rep. J. J. Pickle, D-Tex., as a result of the number of complaints he has received about mail service throughout the country.

And while I'm not urging you to march on Washington, I would like to suggest that you join me in writing to our senators and representatives (see names and addresses on Page 31) urging them to push for a complete investigation of what's being done—or left undone—by our postal service.

While the complaints of foul-ups and poor service continue to The SUN, the greatest postal "horror story" yet came out of Washington last week.

Congressional sources said the U.S. Postal Service is planning to scrap more than $18 million worth of mail processing equipment it put into service only last July, according to a Scripps-Howard report.

Key members of Rep. H. R. Gross' Post Office Committee said they were preparing to investigate what one called "the continuing horror story of foul-ups."

The equipment in question is located in New Jersey at a bulk-mail processing plant. The Postal Service is planning to move the bulk processing business from the facility which opened only last July to a new plant, three miles away.

When House Post Office Committee members asked what would be done with the equipment at the first plant, they were told most of it would be scrapped. The congressmen said there was some indication the equipment had been "improperly designed" from the beginning and that a large number of packages have been damaged while being processed.

As if that isn't enough, there is also great concern about the new equipment for the new plant. It seems that much of it has been standing, improperly covered, on a railroad siding for five months. As a result, according to the congressmen, the equipment is badly rusted.

Some people are beginning to think that our postal service management is badly rusted. The waste, in the $17.5 million deception advertising program, in the misuse or abuse of $18 million of processing equipment, and in the everyday snafus being committed across the nation, is incredible.

Although our personal postal experiences pale by comparison when you think of the millions of dollars being wasted at the same time the postal service is talking economy and trying to do the job with insufficient manpower, let me describe my latest experience.

Last October I ordered, by mail, what I thought would be a small gift for Kay for Christmas. In the rush of daily events, I forgot about it—until I received a card from the manufacturer saying that the package had been delivered but that I had refused it. He wanted to know why.

I wrote back that I had never seen or heard of the package, that there must have been some mistake and to please remail it.

I forgot about it again, until shortly before Christmas when I received another notice from the manufacturer saying the package had been mailed to me again, that I had refused delivery again and asking why again.

Again, I wrote the manufacturer explaining that the whole thing had reached the ridiculous stage and pointing out that I had yet to see, feel, or even receive notice of any package.

Nothing further happended—until one night last week. The doorbell rang and a neighbor's daughter handed me a small package.

"This was left at our house by mistake this morning," she said.

There it was—finally. The package was properly addressed. After three mailings, and four months, I had finally received it. But only because of the courtesy of the young lady next door.

You can write Senators Peter Dominick and Floyd Haskell and Reps. William Armstrong and Frank Evans. For what can you ask them?

Help!

SENATOR CLARK, OF IOWA, MOVES FORCEFULLY ON BEHALF OF IOWA AND THE NATION

Mr. McGOVERN. Mr. President, the Senator from Iowa (Mr. CLARK) has compiled an impressive record in the few weeks we have been in session. He has taken an active role in the work of the Committee on Agriculture and Forestry, and has not been hesitant to speak out in defense of the people's interest.

Senator CLARK moved quickly to defend the interests of his constituents in Iowa who have been threatened by the cutback by this administration of many programs vital to rural States. He represents his constituents with great distinction.

Mr. President, the Senator from Iowa is exemplary among a group of exemplary freshmen Members of this body. Recently, my hometown newspaper, the Mitchell Daily Republic of Mitchell, S. Dak, published a story about Senator CLARK, written by George R. Hohnann, of the newspaper's Washington bureau, I ask unanimous consent that the article be placed in the RECORD.

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

FRESHMAN IOWA SENATOR BATTLING NIXON'S ACTIONS

(By George R. Hohnann)

WASHINGTON.—Richard C. Clark has not changed his informal lifestyle since he entered the august chambers of the U.S. Senate this year.

He still dresses casually, goes by the nickname Dick Clark instead of the more formal Richard, engages in long relaxed conversations with visitors, and prefers the small towns of his native Iowa to the glitter of the nation's capital.

But that informality can be misleading. He is a dedicated midwestern Democratic liberal in the classic tradition who brings an orthodox liberal approach to the Senate.

A powerfully built man whose rough-hewn features remind one of actor Richard Boone, Clark is a former college professor who became a Senator at the age of 42 by a political fluke.

He literally walked his way into the Senate, and is the only one of the 13 Senate freshmen without previous experience in elective office.

As an aide to Iowa Rep. John Culver, Clark this time last year was preparing the way for his Democratic boss to challenge Republican Sen. Jack Miller, when Culver decided not to make the run, Clark jumped into the race himself.

A 99-day, 1,313-mile walking tour of Iowa overcame his lack of identity among voters of his state. A controversy over special interest legislation sponsored by Miller helped him with a surprise victory with 54.6 per cent of the vote.

During his first two months in the Senate, Clark has aligned himself with fellow liberals, as well as conservatives, in the struggle over Presidential versus Congressional power, the overriding issue of this session.

In a recent hour-long interview, Clark propped up his feet, rocked back in his office chair and talked about himself and the issues Congress faces.

Clark questions "whether the President, this President or any President, has the power to refuse to spend money that has been appropriated," and whether the Congress or the President will set the nation's priorities.

Clark vehemently disagrees with Mr. Nixon's assertion that a President has the right to impound funds if the action is necessary to prevent inflation or tax increases.

"In effect, he is saying he has the right to end any program Congress ever passes," said Clark, adding, "if that's the case, clearly we aren't a Congress or a legislative body—we're an advisory council."

Clark thinks Congress will respond to the challenge because both liberals and conservatives strongly believe the President is overstepping his authority.

As to who is in charge of setting national priorities, Clark believes it is Congress' job. He says there is general agreement in Congress that federal spending must be curtailed, but he disagrees with Mr. Nixon's contention that "human programs" are the ones that must get the ax.

Clark would like to keep the federal government's housing, economic development and social programs. The money Mr. Nixon wants to save, he says, should be trimmed from the defense and space budgets and through reform of tax loopholes that favor big business.

'If we go ahead and build the Trident submarine at $1.5 billion and the B–1 bomber at almost a billion, next year the Defense budget will really be high," Clark observes.

"I'd hate to see the argument made that we're going to have an increase in taxes and inflation if we don't cut these human programs," Clark says. "It seems the President is presenting this kind of story. But that is just not the argument."

Clark is not sure Congress will agree with his views and frankly admits that he and others with similar convictions will be lucky this year "just to resist the cuts."

"If we can hold the line this year and hold the line on future commitments to new defense systems, then I think in another year we can begin to reverse the trend."

Cutting the defense budget and reforming the tax system were issues in Clark's campaign, but the overriding issue in a state that produces $3.8 billion yearly in farm goods was, of course, agriculture.

Since Clark took office, he has been named to the Senate Agriculture Committee and has been assigned a subcommittee chairmanship.

During his first weeks on Capitol Hill he moved immediately into the agriculture issues, voicing support for the farm programs cut by Mr. Nixon and working to alleviate the rail boxcar shortage that hinders his constituents' ability to get grain to market.

Clark, like Mr. Nixon, wants to see farmers produce more and take advantage of expanding foreign markets like Russia and China. But he will fight the President's proposed new policy of letting farmers fend for themselves.

"It seems clear we have the potential markets overseas for our farm products," Clark says. "But if we overproduce and can't sell the products, the farmers are going to be hurt with low prices."

Accordingly, Clark is not prepared to support Mr. Nixon's proposals to dismantle the existing farm programs which provide a network of government price supports farmers can utilize if the free market can utilize if the free market fails to generate satisfactory price levels.

"If the Administration and the Congress are confident we have these overseas market, OK. Let's produce more but let's not make the farmer be the scapegoat—let's give him high price supports. After all, if the markets are there, the high price supports won't cost the federal government anything.

Clark taught college history and political science for five years, before entering politics as an aide to Culver in 1965. During most of that time he operated out of the Congressman's field office back home.

He still prefers the "peaceful and pleasant" surroundings of hometown Marion (pop. 13,028), where his wife and two children continue to live.

E. K. GAYLORD—PUBLISHING PIONEER

Mr. BELLMON. Mr. President, on Monday, March 5, one of Oklahoma's most distinguished citizens reached a milestone that is achieved by relatively few mortals. On that date, Mr. E. K. Gaylord, of Oklahoma City, celebrated his 100th birthday.

Few Oklahomans talk about his age, however. Most of them regard him as ageless, because to this day he continues to set a pace that some younger men find hard to match.

For example, last Friday night, a dinner was held in his honor in Oklahoma City and I had the opportunity of attending and hearing Mr. Gaylord make some remarks. He told a story about a woman who had reached her 100th birthday and a similar event was being held. During the festivities, a young college girl came up to her and said:

It is so great that you are celebrating your 100th birthday. I just hope I can come back and help you celebrate next year.

To which the older woman replied:

Well, I don't see why not. You look healthy enough.

If that is not an optimistic outlook, I don't know what is. I am told that after the rigors of the evening, Mr. Gaylord showed up for work as usual on Saturday morning.

Yesterday in a special appearance before a joint session of the Oklahoma Legislature, Mr. Gaylord talked for 30 minutes about Oklahoma's history, taking the occasion to correct a few things the historians have written. He also presented some farsighted proposals and challenges.

Although several special events were held for his birthday, I am inclined to think that E. K. Gaylord should be acclaimed not for how long he has been around, but for what he has accomplished. In reviewing the contributions this amazing man has made to his community, his State, his Nation, and to his profession, it is easy to see how he has become almost a legendary figure.

For 70 years, since he founded the Oklahoma Publishing Co. in what was then Oklahoma City, Oklahoma Territory, E. K. Gaylord has influenced the economic, social and political life of our State to a degree unmatched by anyone else. In a quiet but forceful way, he has shaped the civic affairs of Oklahoma City and the development of the State of Oklahoma, from the time he helped lead the fight for statehood in 1907 and locate the State capitol in Oklahoma City.

E. K. Gaylord is truly an Oklahoma pioneer. He is also a strongly patriotic American. With a mind as alert as his body is strong, he personally directs the editorial policies of his newspapers and when the occasion calls for it he writes front-page editorials championing the fundamental principles on which this country was founded.

An outspoken advocate of a strong national defense, he has gone to great lengths to inform himself about the respective defense capabilities of the United States and countries which could pose a threat to our Nation's security.

Mr. President, it has been an honor and a privilege to have known E. K. Gaylord throughout my political career. His life of service has been an inspiration to me as it has to countless others. He was quoted one time as saying:

I'm still interested in what's ahead. The past is gone. I'm interested in what's going to happen tomorrow and the succeeding day. The past can't be retrieved now.

Perhaps this philosophy has been responsible more than anything else for keeping him keenly interested and actively involved in the events of our day.

Of all the tributes paid to this man during the past few days, none was more stirring than a recorded message by President Nixon, which was played at last Friday night's dinner. The message was brief but meaningful.

Mr. President, I ask unanimous consent that the text of the President's message be printed in the RECORD.

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

TEXT OF MESSAGE BY PRESIDENT NIXON ON E. K. GAYLORD

Mrs. Nixon and I are proud to join you tonight in honoring E. K. Gaylord and in wishing that his 100th birthday be the happiest birthday of them all. In E. K. Gaylord's lifetime we have gone from the prairie schooner to a land rover on the moon. From Kansas to Colorado to Oklahoma, when it was still a territory, Mr. Gaylord has covered a lot of American ground. He has made great contributions to his neighbors and countrymen every step along the way. The poet Sophocles wrote, "You have to wait until the evening to see how splendid the day has been." As he reaches this great milestone, E. K. Gaylord can look back and say that the day has indeed been splendid.

Mr. BELLMON. Mr. President, in order that Members of the Senate can fully appreciate the achievements of this publishing pioneer and farsighted leader, I ask unanimous consent that a biography of E. K. Gaylord be printed in the RECORD, along with an article from the Quill magazine, and two of Mr. Gaylord's speeches.

May I join in saluting E. K. Gaylord, an outstanding Oklahoman, a great American.

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

E. K. GAYLORD—BRIEF BIOGRAPHY

Edward King Gaylord was born March 5, 1873, on a farm near Muscotah, Kansas, son

of George Lewis Gaylord and Eunice M. Edwards Gaylord. In 1879, the family moved west, living first in Denver and later settling in Grand Junction, Colo. Between the ages of 11 and 15, Gaylord picked strawberries for a truck farmer and worked in a second hand store. In 1891, with $17 in his pocket, he entered Colorado College in Colorado Springs. He was business manager and later, also, editor of the college newspaper.

In his junior year, he and a brother, Lewis, bought the controlling interest in the Colorado Springs Telegraph. Gaylord studied law at night and later was chief deputy court clerk in Cripple Creek, Colo. He was advertising salesman and an editorial writer for the Telegraph before the brothers sold their interest in it. Lewis Gaylord next invested in a St. Joseph, Mo. paper and Edward was its business manager.

In 1902, Edward Gaylord went to Oklahoma City, Oklahoma Territory. On Feb. 6, 1903, he and two others bought 45 percent of the stock in the Daily Oklahoman, then eight years old, and they formed the Oklahoma Publishing Co. Gaylord was business manager. In 1906, Gaylord bought property at NW 4 and Broadway where the present newspaper plant stands.

Gaylord was a leader in drives for Oklahoma statehood and to locate the capitol in Oklahoma City.

In 1911, he started a farm paper, known then as the Oklahoma Farmer-Stockman. It now is The Farmer-Stockman and also publishes editions for Kansas and Texas. The publication was sold in 1972 to a group of its employees.

On Dec. 29, 1914, Gaylord married Miss Inez Kinney, Bellaire, Ohio, a national YWCA secretary.

In 1915, Gaylord was elected president of the Oklahoma City Chamber of Commerce. He has served as a director of it since that time.

In 1916, the Oklahoma Publishing Co. bought the Oklahoma City Times at a sheriff's auction for $30,000. Gaylord became president of the Oklahoma Publishing Co. in 1918 and continues as president and general manager as well as editor and publisher of The Daily Oklahoman and Oklahoma City Times.

In 1928, Gaylord purchased radio station WKY in Oklahoma City. The company now also owns WKY–TV in Oklahoma City and other television stations in Houston, Tampa, Fla.; the Fort Worth-Dallas area and Milwaukee. Other divisions of the company include Oklahoma Graphics, a quality offset printing house; National Packaging, makers of printed cellophane and polyethelene packaging; and Publishers Petroleum, an oil and gas development firm.

In 1931, Gaylord formed Mistletoe Express, an express trucking service in Oklahoma, Texas, Kansas, Missouri and Arkansas.

Gaylord has been president of the Southern Newspaper Publishers Association; director of the Associated Press; and was an organizer of the Frontiers of Science Foundation of Oklahoma, Inc. He has fostered every major civic enterprise in Oklahoma City and the state personally and/or through his newspapers since 1903. In 1968, the newspapers began operating from a new $3 million plant adjacent to the old building at NW 4 and Broadway.

Gaylord and his wife live in Oklahoma City. There are three children: Edward L. Gaylord, Mrs. Ralph Neely and Mrs. Edith Gaylord Harper, all of Oklahoma City, nine grandchildren, and one great grandchild.

EDWARD KING GAYLORD: AT AGE 100, STILL MINDING THE STORE

(By Jack M. Bickham)

Every morning, six days a week, the editorial writers leave their paneled cubicles and walk down the carpeted corridor to the large office at the east end. They go through a reception room, exchange greetings with the woman there, and enter the publisher's office. It is comfortable, arranged with leather chairs and couches, dominated by a single desk that faces the door. Draperies cover one wall. There is a color television set, and in one corner an old grandfather's clock. The slight, gray-haired man at the desk greets each man as he enters; sometimes he allows himself a faint smile, sometimes he doesn't.

The writers sit down. The man at the desk looks at whatever materials he has on his desk, usually copies of the *Wall Street Journal* and his own publications, the *Daily Oklahoman* and Oklahoma City *Times*.

Usually it's very quiet in the room while the writers wait for the publisher to speak. The clock ticks softly. The publisher turns pages and seems to read.

Finally he looks up. "I see," he says softly, "that the governor . . ." (or the President, or the legislature), and mentions a news story.

This opens an area of discussion. The writers give their views, and he agrees or disagrees, often saying very little but indicating the line of his own thought. Sometimes the entire "conference" is discussion of a single topic; other times, a dozen items may be touched upon.

Either way, precisely 30 minutes after the meeting began, the publisher arranges his papers on the desk again, says, "Thank you," and the writers file out. They go to their own offices, discuss what was said, select topics, and produce the next day's editorials.

Low-key. Polite. Formal. Typical, it would appear, for an operation conducted by E. K. Gaylord, president of the Oklahoma Publishing Co. in Oklahoma City.

Gaylord runs his empire, which includes television outlets in four states, Oklahoma City's premier radio station and numerous other subsidiaries, with this characteristic quiet firmness and attention to detail. He has been enormously successful, and his daily contribution to operations might not be so unusual if he were a younger man.

On March 5, 1973, he will be 100 years old.

He does not look it. Obviously, he does not act it, either. Although he does not do all his own driving, as he did until only a few years ago, he can still walk younger men into the sidewalk, hiking back up the slope from the heart of downtown Oklahoma City to "The Hill," that slight rise at the city's NW Fourth and Broadway where his newspaper plant sprawls. And although he seldom visits the newsroom on the fourth floor of the company's modern new plant, his presence is still keenly felt by all those who work there.

"We need him," one long-time newsman said recently. "I don't care if he even knows my name—although I think he does.

"He's a newspaperman."

This feeling of reliance upon and dedication to E. K. Gaylord is not a bogus phenomenon. People outside the company refer to him as "E. K."; a few very oldtimers sometimes call him "The Chief," while others, not quite so old, call him "The Old Man." But the usual appellation is "Mr. Gaylord," to his face or behind his back; it stands for respect, and admiration, and even love.

One way to measure authority is the stories they tell about a man.

They tell about the young editor on the *Oklahoman's* state staff who was covering a tornado by telephone one night. It was late and he was near a tough deadline. A call for information came from a voice that said, "This is Gaylord. What can you tell me about this story?"

The young editor thought it was an AP writer named Gaylord Shaw.

"Listen, Gaylord," he snapped, "I'm too busy to talk to you right now. Just leave me alone and you'll get your information when I can get to you.

The next morning, word filtered down that Mr. Gaylord had mentioned to the managing editor that one of the staff had been "somewhat short with him" on the telephone the previous night.

It was explained. The young editor stayed on. Nothing more was said.

They tell about the new girl in the women's department who happened to be riding up in the elevator with this nice elderly gentleman who wore an expensive-looking powder blue suit.

"That's a pretty suit," she told him. "It looks expensive. I can tell you don't work around here."

Nothing was ever said about that one, although other employees on the elevator almost shriveled in their tracks.

They also tell about an employee who had been loyal, and fell ill, and was kept on the payroll for a decade or so while bedridden.

But those are internal yarns, the kind only newsmen can appreciate. History may look more toward Gaylord's contributions to the business, the city and the state.

All have been noteworthy.

He was born Edward King Gaylord on March 5, 1873, on a farm near Muscotah, Kan. When he was six, the family moved west, living first in Denver and later in Grand Junction, Colo. Between the ages of 11 and 15, he picked strawberries for a truck farmer and worked in a second-hand store. In 1891, with $17 in his pocket, he entered Colorado College in Colorado Springs. He became editor of the school paper, and in his junior year became a partner with his brother, Lewis, in buying the Colorado Springs *Telegraph*.

The story of Gaylord's rise to power began in December, 1902, when he was business manager of the St. Joseph (Mo.) *Gazette*. He was 29 years old at the time. As Gaylord tells it, as Christmas approached, he decided to go to St. Louis for a few days' rest.

"In reading the newspaper, I found an item in the St. Louis *Republic* which was a brief interview with Mayor Carter Harrison of Chicago. He said he had been in Texas and coming back through Oklahoma Territory on the train, he saw fields of cotton, white for the harvest. He said Oklahoma Territory could raise the crops both of the south and the north, and, being between Texas and Kansas, some day it should develop into a state with comparable cities and towns. He further remarked that if he were a young man, he would go there to start his career.

"His statement electrified me with an intention to locate there and launch or acquire a newspaper of my own."

Of the two largest cities, Gaylord selected Oklahoma City over Guthrie because the former, he had been told, "had a live bunch of young men in business who were wide-awake and progressive." Oklahoma City when he arrived was living literally in the horse and buggy era. There were no automobiles, and all the streets except for a few blocks were dirt roads.

There was no wire service for either of the two existing newspapers. News was transmitted at intervals over the Western Union and by pony service.

"There was one morning paper, the *Daily Oklahoman*, and an evening paper, the *Times-Journal*," Gaylord said. "Before going to either of them, I went into a bank and interviewed the cashier. I told him I wanted to investigate the two newspapers and perhaps buy an interest in one if I could. I asked him which would be the better paper.

"He said, 'It won't make a damned bit of difference which one you buy; neither one of them is worth a whoop in Hell.'"

On Feb. 6, 1903, Gaylord and two others bought 45 per cent of the stock of the *Daily Oklahoman*, a then-struggling eight-year-old. In 1906, he bought the property at NW Fourth where the company now stands. In 1911, he started the *Oklahoma Farmer-Stockman*, an agricultural pioneer which continues to this day with regional publications in Kansas and Texas.

The Oklahoma Publishing Co. (Opubco) bought the Oklahoma City *Times* at a sheriff's sale for $30,000 in 1916. Gaylord became president of Opubco in 1918. In 1928 he purchased a radio station WKY in Oklahoma City.

Gaylord's son, Edward L., is executive vice president and treasurer of Opubco, and a daughter, Edith Gaylord Harper, is secretary of the organization.

As early as 1904 he began making innovations. In February of that year he installed a seven-day Associated Press wire even though his paper ordinarily did not publish on Sunday. When the Russo-Japanese war broke out, he ordered a Sunday extra that was distributed statewide and into portions of Kansas beating all opposition. Other firsts have come regularly, including innovations in stereotype color plates and publication of the industry's first completely counter-set newspaper, that in 1963.

Gaylord's publications have always been synonymous with growth for Oklahoma City. Industrial growth has been spurred by his efforts not only on the editorial page, but in countless closed-door meetings. He was one of a handful of civic leaders who helped establish Tinker Air Force Base near the city, bringing in a 20,000-man payroll. When Oklahoma City faced repeated serious water shortages in the 1950s, it was Gaylord who spearheaded the drive to build a 100-mile water pipeline into southeastern Oklahoma, where water was abundant. The pipeline met heavy opposition; Gaylord's private reservation about it today is said to be that it's too small—that another pipeline is needed.)

It's doubtful that many major state projects have been completed without a trek to Fourth and Broadway by one or more members of the planning organization. Turnpike construction and business development in remote areas have sometimes turned on Gaylord's decision. In a career spanning the entire life of Oklahoma as a state, he has probably held, and used, as much power as any individual in the history of the region.

Gaylord's recreations today are few. He neither smokes nor drinks. He says he gave up golf "when I was about 75." Looking back on a life that saw $17 become a multi-million dollar empire, he says, "It isn't easy work that gives you satisfaction. It's the hard things that we overcome that make us and make our business." He often cites another line as a personal conviction: "No man has the right to be less of a man than he can be."

Having risen from poverty to wealth in another age, Gaylord espouses an editorial policy on national and international affairs that is as conservative as his policies on urban development are progressive. Headlines on editorials such as "Foreign Aid Must Go" and "Red Menace Grows" are not uncommon. The most bellicose international editorials appear on the front page; this position indicates Gaylord himself wrote them. He seems to prefer writing an editorial himself if the alternative is to issue a direct order in the matter; he says no one on his staff is ordered to slant stories, and he would not employ a writer who would accept such an order.

Staffers bear this out. They feel free, as one put it, "to be just as good as we can be; that's the only limitation on us—our own talent." On the other hand, the papers lost an extraordinary managing editor a few years ago when he began campaigning against certain practices of the local business establishment. And serious coverage of the Oklahoma City ghetto does not exist, again reflecting a general tendency to view the city's only legitimate news as the events of the affluent.

These characteristics leave Gaylord with detractors as well as friends in Oklahoma. No one denies the enormous impact he and his publications have had on the city and state.

Oklahoma oil magnate Dean A. McGee, one who has had his differences with Gaylord, describes the seemingly ageless editor-publisher as "a wise and intellectual visionary builder of his community" and " a living legend."

"From the beginning," McGee said, "Mr. Gaylord and the newspapers, which his leadership and ingenuity guided to national eminence, have been active in promoting the progress of his adopted city and state. He personally led the fight for statehood which culminated in 1907 when Oklahoma became the 46th state to join the Union. He also successfully championed the establishment of the state capital in Oklahoma City. A great many of the good things we see about us in Oklahoma and especially in this community had their birth in the mind of this man."

TRADITION LIVES ON

(Introduction by Dr. George L. Cross, President, Oklahoma Heritage Association:

(Ladies and gentlemen: We have at our speakers table today a number of our leading citizens who are chairmen of our active statewide Oklahoma Heritage Association committees whom I would like to present to this magnificent audience, but in the interest of giving our speaker all the time he will take I'll forego the introduction.

(And now I have the privilege to present to you as our speaker the dean of American editors and publishers. He is a man who has been a loyal citizen of Oklahoma since 1903, a man who is well known throughout America, our beloved citizen and friend, President of the Oklahoma Publishing Company, Mr. E. K. Gaylord:)

I was invited to talk for 15 or 20 minutes on some events in the early history of Oklahoma City and especially to relate incidents demonstrating the faith and loyalty of pioneers in the future of their city and state.

Many of you have listened to talks by other old-timers and it is possible that I shall duplicate some of the stories you already have heard. I hope to tell you some things you have not heard.

On my arrival here in December, 1902, the last house north was considered to be the Dewey cottage at 12th and Hudson. Classen had marked off all the blocks from 13th north to 16th as a bon ton residential district, but it was all planted in wheat, although trees had been set out along the front of the lots.

The only house under construction was the Overholser Mansion. The foundation was in and the walls just beginning to rise.

The last house west on Main Street was in the 900 block. A blackjack grove north covered a large acreage. I think a few of those blackjacks are still standing in some east side lots and one or two in the sidewalks.

Oklahoma City was a typical western frontier cow town. The block on Broadway between Grand Avenue and Main Street, opposite where the Huckins Hotel was later constructed, was known as "battle row" and every building but one was either a gambling house or saloon. The one exception was the Saddle Rock restaurant where you could get a ham sandwich and a cup of coffee for 15 cents.

In January, 1903, when I became a permanent resident, I obtained a room and board in a house on 3rd street where the sixteen story Southwestern Bell Telephone building is now located. I paid $4.00 per week for twenty one meals and my room. Figuring the meals at 15 cents, the twenty one meals would be $3.15, leaving 85 cents a week for room rent. The meals were adequate, too. And the room was comfortable for me and a room mate.

Like all pioneer settlements, Oklahoma City was a man's town and it was estimated that there were three men to one woman in the city. Everybody was young and it was claimed that there was only one merchant on Main Street over thirty years of age. This was a slight exaggeration, but the city was almost devoid of old people.

Zack Mulhall, who founded the town of Mulhall on his ranch north of Guthrie, had two daughters. Bossy Mulhall was a cowgirl in Buffalo Bill's show and she had been publicized quite a bit because of her performance in that show. Her younger sister, Lucille Mulhall, was in Oklahoma City one day and rode her horse over a high curb into Two Jack's Saloon in Battle Row and ordered a whiskey straight without getting out of the saddle. The bartender and several customers were quite agitated, but the horse and Lucille were unconcerned and turned around and went out as if it were a daily occurrence.

All the railroads were running monthly excursions, called "home-seekers excursions" into Oklahoma and most of them to Oklahoma City. There was great optimism on the part of all citizens and nearly everyone claimed to be a "booster." If you were not a booster, you were a "knocker" and would be ostracized. Some enthusiasts claimed that Oklahoma City, in a few years, would have 25,000 population. Conservatives discounted this but a few more enthusiastic boosters even predicted it would have a population of 50,000.

Seymour Hyman, who was very active in the Chamber of Commerce and ran a clothing store on Main Street, went out with Chamber of Commerce excursions and made many booster talks. A few years later, a man from Elk City came into his store and said, "Mr. Hyman, I want to apologize to you. You were in Elk City a few years ago and bragged that Oklahoma City would some day have a population of 100,000. I made fun of you as a dreamer and a hot air artist, but now I see you were right and you will soon have 100,000 and I just want to apologize to you."

Seymour Hyman put his hand on the man's shoulder and said, "Don't you apologize to me. If I had believed half of what I told you, I would be a millionaire today."

Henry Overholser was the outstanding town builder. He was the one responsible for getting the Frisco Railroad to build into Oklahoma City instead of Guthrie. He campaigned for several years to get a water supply for the city was getting its water from pipes driven into gravel beds in the North Canadian River.

After three elections, bonds were finally voted for Lake Overholser and we had a visible water supply.

Henry insisted that we should have a state fair and he bought 160 acres of school land on Eastern Avenue and built some buildings as a start for a state fair. He wanted Classen, who owned the street railway to build a car line out to the fairgrounds. Classen said he would not build it unless they would pave 8th street so they could put the car tracks on a paved street. Overholser tried to sign up property owners along 8th street but many refused.

There were a good many vacant lots on the street and Overholser bought them all up, got a majority of lots along the street and signed the papers to have the paving charged to the lot owners and the paving and the street car line was built.

I. M. Putnam was a real estate developer and a great town booster. When Thomas E. Wilson came to town and had a secret meeting with leaders of the Chamber of Commerce, he offered to build a $3,000,000 packing plant, provided a large tract of ground was made available and the citizens would pay a bonus of $300,000.

John Shartel, who ran the street railway for Mr. Classen, Mr. Classen, Sidney Brock, president of the Chamber of Commerce and I were the committee to make a deal with Mr. Wilson.

At one o'clock in the morning, after hours

of negotiation, we each signed a contract with Mr. Wilson that the citizens would pay a $300,000 bonus and the land for the packing house site would be optioned.

The deal was kept secret for several weeks until all the farm land needed was purchased or contracted for. The Chamber of Commerce called a meeting of citizens to raise the $300,000. I. M. Putnam was master of ceremonies. One citizen after another volunteered a pledge until finally $265,000 had been raised. When that point was reached, Putnam waved his hands in a grand manner and said, "I will take the rest." It had taken less than two hours to raise that money.

A year later another packing company offered to build a plant costing $3,000,000 and demanded a $300,000 bonus. It took about two weeks to obtain pledges in that amount.

Many individuals gave small sums, $100 or even less, but every one wanted to participate. Such was the spirit of loyalty to Oklahoma City.

When an initiative petition to move the capital from Guthrie to Oklahoma City was filed, the Chamber of Commerce enlisted more than two hundred speakers to go to towns throughout Oklahoma to plug for Oklahoma City as the capital. The Chamber sent out four special trains in different directions and many business men left their stores or places of business to join in the campaign. Oklahoma City won the election by more than 50,000 votes.

With many people, the growth and welfare of the city was paramount to their personal gain.

In 1906, the famous Sarah Bernhardt was coming to put on a play in the Overholser Opera House. Our society editor suggested that we wire her an invitation for her and her company to attend dinner after the show. She had turned down an invitation to such a dinner at the Union Club in Chicago. I thought she would refuse, but we received a telegram in French, accepting. It was then up to all the society people in Oklahoma City to rent white ties and tails for a grand dinner.

The only place to hold it was in the Marquette Club on the top floor of the Empire Building, a five story building adjoining the Criterion theatre, which had not been built then.

Every seat in the opera house was occupied and the whole play was in French but everybody was thrilled by Bernhardt's magnificent voice and acting.

Meals at the Marquette Club were normally 35 cents, but the price of this dinner was boosted to the unheard of price of $1.50.

All of the elite of the town attended but I imagine that Sarah Bernhardt was disappointed that guests were not in cowboy costume.

In about 1905 or 1906, the Oklahoma Cattlemen's convention invited the Texas cattlemen to meet in a joint meeting in Oklahoma City. A man named King was appointed a committee of one to prepare the entertainment. There were more than 1,000 cattlemen from Texas and Oklahoma and a dancer from Chicago was introduced as "Queenie." There probably were fifty or more prominent Oklahoma City business men in attendance. Queenie began dancing and presently threw off a cape she was wearing. A little later, shed another garment and the audience sensing what was coming, yelled, "Take 'em off, take 'em off."

She dropped a skirt—in those days they wore underskirts, took off her waist and finally, one by one, all her garments but the last, and they had to do a lot of yelling before she appeared absolutely nude.

The news of Queenie's disgraceful disclosure spread like wild-fire over the city. Women, whose husbands were not home that night, were demanding "Were you there?" Some of the men, thinking discretion was the better part of valor, claimed they were playing poker with Bill Pettee. Bill had calls from a lot of housewives, asking if their husbands had been playing cards with him last night. Bill was equal to the occasion. "Why yes, George was here" and another one would call—"Yes, Roy was here playing with us." I think Bill alibied for at least twenty or twenty five husbands who had gone to the entertainment without any knowledge of the Queenie act.

One man who lived on East 10th street and I have forgotten his name, was more candid than cautious. He went home and his wife was asleep so he did not disturb her. When he awoke in the morning, he heard his wife in the kitchen and went out there and found her breaking some eggs to fry in the frying pan. He said, "Honey, last night I saw a woman take off her clothes one garment at a time—her waist and her skirt and her corset and everything until finally she dropped her drawers and there she was naked as . . ." he never finished the sentence. His wife grabbed the frying pan and, wham, those fried eggs went right in his face.

It seems that the wives of the Texas cattlemen were the most incensed—they laid the law down to their husbands that never again will you go to Oklahoma City to a cattlemen's convention. That was 65 years ago and the Texans haven't been back, but Queenie was a fighting word among housewives in Oklahoma City for many years.

The great booster spirit of the early days continued on. The Oklahoma City Chamber of Commerce took up the challenge and led the way to more and greater achievements.

It was Stanley Draper who developed the plan of asking citizens to underwrite projects of the Chamber of Commerce to develop new industries and to purchase land for the expansion of city institutions. For instance, about 15,000 acres of land was purchased around the Tinker area, including land for Stanley Draper Lake and the expansion of the city water system.

Some of the underwriting money of citizens was used also to buy a portion of the new lake site this side of Stanley Draper Lake, all of which was transferred to the city without profit.

You are familiar with the story of how an Air Force Captain and Lieutenant from Washington came to the chamber and issued an ultimatum at nine o'clock in the morning that many things must be provided by four o'clock that afternoon if the Air Materiel base was to be located here.

They required more than forty miles of streets, eight miles of six lane paving, ten miles of water mains twenty four inches in diameter, a gift of land and an option of a still larger amount of land and dozens of other requirements.

They assumed it was impossible to fulfill their demands and bought tickets to go to Wichita where they wanted to locate the air depot.

Stanley Draper took charge, the state highway department, the city council, county commissioners and others were organized and a guarantee to fulfill all demands was handed to the Air Force representatives at four o'clock.

That's why we have Tinker Field today.

From then on more than one thousand citizens, time after time, signed notes, many of $100,000 or more, amounting, over the years, to over $40,000,000 and the money was used by the Chamber to develop not only Tinker Field and the Federal Aviation Center, wholesale and manufacturing districts and scores of other projects which have made Oklahoma City a metropolitan center of 650,000 population.

One important project was the purchase of many tracts of land around the site of Will Rogers airport and which was transferred to an aviation trust set up by the city.

The purchase of land for the Western Electric Company resulted in a new industry employing thousands of people. The land for the Federal Aviation Center was purchased and leased to the government, ensuring another very important source of employment.

The notes of all these underwriters were cashed by the leading banks of the city and the money made available for city projects.

All of these notes have now been paid off and there is no further liability to the underwriters.

No citizen ever lost any money on the credit which he loaned to the Chamber of Commerce.

I want to end this talk with one more story.

Dan Hogan used to have a bank in Yukon but he moved to Oklahoma City and bought the Farmers' Bank at the corner of Grand and Robinson. Most bank accounts were small but one day a Greek who had a shoe shine parlor on Grand Avenue walked into the Farmers' National Bank and pulled out $51,500 in cash to deposit. Dan was terribly excited and quizzed the Greek as to where he got the money—did he make it out of his business? Yes, he had saved it up, he said. Dan said, "Well you ought to be a member of the Rotary Club. This shows what America can do for a Greek immigrant who comes to this country and works hard and saves his money. I am going to propose you as a member of the Rotary Club."

The Greek was duly elected a member, inducted and instructed—he must always be loyal to Rotary, must always tell the truth and must work for the benefit of his community, to which he agreed. After he was inducted, they asked him if he would like to say a few words. He said, yes, he was glad to be a member but he had promised to tell the truth and he wanted to clear up a misunderstanding. He said that $51,500 I deposited, the $1,500 was money I had saved, but the $50,000 belonged to my sister. She runs a whore house. No doubt Rotary was very proud of their new member.

I was asked to forecast something about the future of Oklahoma City but I am not a prophet nor a diviner.

Some of you will remember that during the 1920's the Chamber of Commerce and the city campaigned with the slogan, "200,000 in 1930." This was so well publicized that I received a letter from Seattle directed to E. K. Gaylord, 200,000 in 1930. No other address was given.

In the census of 1930, we were nearly 15,000 short as the population was given at something over 185,000.

Again, in the 1950's, we campaigned for 600,000 in 1960 and offered $5,000 in prizes for the nearest guesses to the actual population within a thirty-mile radius of the state capital. Again we fell short, as the census figures were a little over 535,000.

It might be well to set a fairly easy goal of 800,000 in 1980, for in the census of 1970 the metropolitan area was defined as the three counties—Oklahoma, Canadian and Cleveland. This left out part of Oklahoma City which is in Pottawatomie County and another small population in McClain County. However, the total population for the three counties was 640,889 and in the next eight years we would need to gain only 159,111 to make the goal of 800,000; instead of being short of our goal, we might have some surplus over the 800,000.

Population, however, is not our major goal. The quality of citizenship, the facilities and opportunities for education and culture should be and are our primary goals. Oklahoma City can be proud of its schools and churches and colleges and universities, its Art Center, Symphony, its Cowboy Hall of Fame, its Mummers theater, its Frontiers of Science, its zoo and Planetarium and scores

of other organizations and institutions which upgrade the quality of life in Oklahoma.

I have confidence that the booster spirit still lives and that the people of Oklahoma City will continue to embrace these goals.

THE OKLAHOMA PUBLISHING COMPANY

(By E. K. Gaylord)

(NOTE.—This Address, dealing with the history of The Oklahoma Publishing Company, was delivered at the "1971 Oklahoma Dinner" of The Newcomen Society in North America, held at Oklahoma City when Mr. E. K. Gaylord was the guest of honor and speaker on March 25, 1971.)

My fellow members of Newcomen: It is a signal honor for The Oklahoma Publishing Company to have its story placed in the archives of The Newcomen Society in North America. It was a great surprise to us that our company should be selected to appear in company with so many distinguished corporations.

Perhaps its beginning, with almost nothing, in a very crude, frontier town and its growth through sixty-eight years under one management, may be somewhat unique.

The growth of Oklahoma City and the growth and development of The Oklahoma Publishing Company are so completely intertwined that the recital may seem more like a skeleton history of Oklahoma City than our company.

The story begins in December, 1902, when I was business manager of the St. Joseph, Missouri, *Gazette*.

As Christmas approached, I decided to go to St. Louis for a few days' rest. In reading the newspaper, I found an item in the St. Louis *Republic* which was a brief interview with Mayor Carter Harrison of Chicago. He said he had been in Texas and coming back through Oklahoma Territory on the train, he saw fields of cotton, white for the harvest. He said Oklahoma Territory could raise the crops both for the south and the north, and, being between Texas and Kansas, some day it should develop into a state with comparable cities and towns. He further remarked that if he were a young man, he would go there to start his career.

His statement electrified me with an ambition to locate there and launch or acquire a newspaper of my own.

I knew nothing of the towns in Oklahoma, their size nor what newspapers were there. I looked up an N. W. Ayer Newspaper Directory and found that there were just two towns of any size in Oklahoma Territory, Guthrie and Oklahoma City. Strangely, the population of Guthrie in 1900 was 10,006 and the population of Oklahoma City was 10,036. The mystery of this will be explained later.

That night I went to the theatre and sat next to a traveling man who I found had covered Oklahoma on numerous trips. He told me that Oklahoma City was far bigger and better than Guthrie; it had more railroads, but the main reason was that it had a live bunch of young men in business who were wide-awake and progressive.

The next day I made arrangements to leave for Oklahoma City.

Right here I must digress to explain that Oklahoma Territory was not by any means what is now the state of Oklahoma. The state of Oklahoma comprises nearly 70,000 square miles, but the first opening for settlement of Oklahoma Territory, on April 22, 1889, was a small patch, comprising only 2,950 square miles, roughly covering only five counties. There were five subsequent openings of Indiana lands to settlers and ultimately, Oklahoma Territory could be described roughly as the western half of the original Indian Territory.

Arriving in Oklahoma City, I checked into a little hotel on Main Street where the John A. Brown Department Store is now located. I set out to see the business district. Stores and retail businesses were confined mostly to the two blocks on Main Street and Grand Avenue, between Broadway and Harvey. Most buildings were either one or two story brick, and traffic on the streets was chiefly lumber wagons with now and then a horse and buggy because, of course, this was prior to the advent of automobiles.

All streets were dirt roads except for one block of paving on Main Street, one on Grand Avenue and two on Broadway, between Grand and 1st Street.

There was a livery stable on the corner of 1st and Robinson where the First National Bank now stands. At the northwest corner of Grand and Robinson, where the Colcord office building is located, there were cottonwood trees and a small pond where water was standing. West of that location was a lumber yard opposite the present Oklahoma Hotel.

On this corner, where we are now sitting, Armour and Company had a wholesale meat store and halves of beef and pork were hung from racks and there was a loading dock on the rear, connecting with the Rock Island, whose trains, both freight and passenger, ground their way through the center of the city on what is now Couch Drive. The Frisco Railroad also came into the center of the town, circling in from the south and its passenger and freight terminals were located where the city hall now stands.

Just west of Armour and Company, in this block, was the flour mill of the Oklahoma City Mill and Elevator Company. There was another flour mill two blocks south of the Santa Fe depot. These appeared to be the only manufacturing plants in Oklahoma City, except a brick plant farther west. Practically everything north, south, east and west of the business center consisted of frame houses, except for an occasional church or school.

My first objective was to look in all the retail store windows and see the kind of merchandise for sale, because you can size up the kind of people by the class of merchandise they purchase.

Most of the stores showed an average, good type of merchandise for a frontier town and I was surprised to find a music store, offering several Kimball pianos and one Steinway. This convinced me that there were people of refinement and education among the early settlers.

I walked in each direction as far as there were homes, west on Main Street to the 900 block, east across the Santa Fe to the 1100 block and north to 13th Street.

From 13th Street north to 16th and between Shartel and Robinson, it was all of flourishing wheat field. It was marked out into blocks and streets, but there were no houses, except the Overholser mansion which was beginning construction.

Classen had laid out this area for the bon ton residential section which now is known as Heritage Hills.

Beyond 16th Street were farms. South, over the North Canadian River there were perhaps 20 or 30 small houses.

The hastily built town was crude and uninspiring, but its possibilities as the metropolis of a future state intrigued the imagination.

There was one morning paper, *The Daily Oklahoma*, and an evening paper, *The Times-Journal*. Before going to either of them I went into a bank and interviewed the cashier. I told him I wanted to investigate the two newspapers and perhaps buy an interest in one if I could. I asked him which would be the better paper. He said, "It won't make a damned bit of difference which one you buy; neither one of them is worth a whoop in Hell."

I went to *The Times-Journal* first but they were not interested in selling an interest nor employing a business manager. I went to *The Daily Oklahoman*, which was wholly owned by Roy Stafford. The paper was published in a store building at 18 South Broadway, in a room 25 feet wide by 60 feet long. It was the dirtiest plant I ever saw, cobwebs hung down from the ceiling, dirt was on the floor.

There was two or three desks on either side as you entered and both a job shop and newspaper machinery occupied the back. *The Oklahoman* was printed on a flat-bed press, limited to eight pages and producing about 800 copies per hour. There were just two Linotypes. The floor was covered with cuttings of paper from the job press. There were less than 20 employes.

It was the most magnificent opportunity I had ever seen because there was so much room for improvement.

Mr. Stafford was very agreeable, admitted he was in debt, and seemed much interested in selling an interest and getting a business manager experienced on larger newspapers. We exchanged business references and agreed we would meet again in about two weeks. Returning on January 17, with the help of attorneys, we made a contract to incorporate as The Oklahoma Publishing Company.

Stafford would not sell the control but sold a substantial minority interest to me and two young men I brought with me from St. Joseph, Ray Dickinson, an advertising man, and Roy McClintock, a news editor.

After cleaning the plant as thoroughly as possible, we sold the job printing equipment to give us more room. I rented an office for myself in an adjoining building.

The Oklahoman had no wire service but received a pony service or news dispatches at intervals over the Western Union. We arranged for the full night wire service with a telegraph operator and as soon as possible made a contract for a new building at the northeast corner of California and Robinson with an area six times larger.

We bought more Linotype machines and ordered a 16-page perfecting press with a color deck and moved into the new plant in October.

A few weeks after my arrival, the city entertained a cattlemen's convention and to head a parade, obtained a company of cavalry soldiers from Fort Sill. Some drunken bystander shot and killed a soldier, a murder that would disgrace the city. I stayed at the plant that night to see that every angle of the murder story was in print.

The next morning, to my consternation, there was not a word in the paper about the murder. I was very provoked and went to the office to see why it had not run and was told that Mr. Stafford had killed it because the president of the Chamber of Commerce had asked him to, saying that it would hurt the town to publish such a story.

I said, "The story will be in the Guthrie, Kansas City and Dallas papers, and everybody in town will wonder why you suppressed it. We are going to get out an extra." An extra had never been heard of in Oklahoma before.

Fortunately or unfortunately, there was another murder in the alley adjoining our building that morning and by noon we got out an extra with the story of two murders instead of one.

Shortly after we moved into our new quarters at California and Robinson, I came to the office early as usual and the society editor rushed out to warn me that the assistant chief of police was there with a gun in his hand, threatening to kill somebody. We had had a story that morning that the assistant chief of police was the payoff man and collected money from all the gamblers.

I went back to the reporters' room and there was the assistant chief of police, in uniform, gun in hand, standing over a reporter sitting in a chair against the wall, his face deathly pale. As I entered the room, the police chief turned toward me and demanded, "Did you write that article about me?" I said, "I am not a reporter, I did not write it, but I am the manager of this paper and

am responsible for it, but you are wearing the uniform of a peace officer and coming down here with a gun in your hand and threatening to kill somebody. Go and take off that uniform for you are no peace officer."

He wilted, stammered and fumbled as he tried to put his gun back in the holster and then he slunk out of the room and we heard no more from him.

During all this perid of rapid city growth there was talk of statehood for Oklahoma, combined with Indian Territory and in Indian Territory particularly, there was a good deal of clamor to have separate states.

The Oklahoman strongly advocated single statehood. The Territories had begun to attract attention and the railroads even ran special excursions once a month to bring in prospective settlers to the city and other towns. Population boomed.

Citizens claimed that there were three men to one woman in the population and that there was only one retailer on Main Street who was more than 30 years old. That was only a slight exaggeration and the predominance of men in the population was correct, for many single young men had come to start a career in a new frontier.

An extraordinary good fortune came to *The Oklahoman* in February of 1904. *The Oklahoman* had no Monday edition. Neither did the morning papers in Guthrie or Wichita, Kansas. News dispatches Saturday were very ominous in that a war might break out between Russia and Japan.

I was very concerned that war might start on Sunday and we would have no paper until Tuesday morning. We asked the Associated Press if we could have a Sunday and Sunday night wire and what it would cost. They replied that all we had to do was to pay the telegraph operator.

We got a skeleton crew in the composing room, stereotype room and news room and began receiving dispatches. Soon there was a story that Japan had attacked the Russian fleet. The telegraph editor made a seven column head of the war and sent it to the composing room. Dispatches began coming in from Baltimore that there was a great fire on the docks.

To make a long story short, in a matter of hours, we had far more copy on the two hundred million dollar fire in Baltimore than we had on the war. We wound up with a four-column head on the Baltimore fire and a three-column head on the Russo-Japanese war.

We had telephoned to Wichita and Guthrie and found that their newspaper plants were dark and we decided to print as many copies as possible and sent boys with 2,500 copies to Wichita and 1,500 to Guthrie. We doubled or trebled the regular orders of all news dealers throughout the state, without asking permission.

Papers were sold out everywhere and *The Oklahoman* had made a sensational scoop which brought us new subscribers from all over the state.

In 1906, Scripps-Howard established *The Oklahoma News*, an evening paper, in Oklahoma City. About the same time, two brothers started a free afternoon paper called *The Pointer*, supposed to be delivered free to every home.

Its competition injured *The Times-Journal* and *The News* without too much effect on *The Oklahoman*. *The Oklahoman's* chief competitor seemed to be the Guthrie morning paper named *The Oklahoma State Capital* which swore to a circulation of 21,000. *The Oklahoman*, at that time, had about 8,000 circulation.

We heard that the Guthrie paper was printing not more than 6,000 copies and an investigation showed that that must be true. From the post office department in Washington we obtained the weight of all second class mail sent through the Guthrie post office. There were 14 publications, mostly monthly or weekly, in Guthrie, and the figures showed that if all the second class mail was *The State Capital*, it could not have over six or seven thousand circulation.

I wrote a long letter to *Printers' Ink* which was the Bible of advertising agencies and advertisers, giving all the figures showing that the Guthrie paper was fraudulently claiming 21,000 circulation.

Printers' Ink published the letter, covering three or four pages.

It made a sensation in the newspaper world and shortly after a man named Wells appeared in my office from the Darcy Advertising Agency in St. Louis. He asked if he could see our books and watch our press run. I told him he was welcome to see everything and talk with any carriers or employees and we would give him any information we had. He checked everything and verified our circulation.

He went to the Guthrie but was refused an opportunity to check their circulation. However, Wells stayed around there and through pressroom windows timed their press run, counted the number of mail sacks and talked with their carrier boys and was convinced they had no more than 6,000 circulation.

He reported this to advertising agencies and advertisers and soon many advertisers were demanding refunds from *The Guthrie State Capital*. In a year or so the Guthrie paper folded up.

Our exposure of the fraudulent circulation claims of the Guthrie newspaper was one of the factors which a few years later led to the organization of the Audit Bureau of Circulations. Our company was a charter member and I was elected a director. The Audit Bureau now is universally recognized and no publication dares to refuse to be audited.

Early in this story I mentioned the mystery of Guthrie and Oklahoma City as having almost exactly 10,000 population in the census of 1900. The explanation was this—the Secretary of the Interior was a czar that controlled the Territories and he issued an edict that no city in Oklahoma could vote bonds to build a city hall until it had 10,000 population.

In 1900, both Guthrie and Oklahoma City lacked considerably of having 10,000 population.

Enterprising citizens copied names off of hotel registers, names on tombstones in graveyards, invented the ages and occupations and other necessary statistics and census enumerators accepted them. They were added to the population. This enabled each city to vote bonds and build their city halls.

While Congress was considering a bill to give statehood to Oklahoma, President Theodore Roosevelt ordered a special census for both territories in April, 1907. Oklahoma City had a population of 32,405 and Guthrie 10,000. Two years and eight months later, at the 1910 census, our city had a population of 64,205, nearly doubled.

In October, 1907, President Teddy Roosevelt closed all banks in Oklahoma and in the nation. A citizens' committee from the Chamber of Commerce issued scrip to be used in lieu of money.

Believing that the banks would eventually open, we advertised annual subscriptions at $2.95 and we would accept checks on any bank in Oklahoma. We got thousands of checks from all over the state because many people thought they would never get their money out of their banks and they could at least save a year's subscription by sending a check.

Gradually restrictions were removed and the banks operated normally.

The agitation for statehood finally brought results and Congress passed the Enabling Act in June of 1907, with the provision that the two Territories were to be merged into the State of Oklahoma and state government organized and to begin operations on November 16, 1907.

The Act also provided that the state capital should remain in Guthrie until 1913, although the location was far less accessible from Oklahoma City.

The Constitution provided for initiative petitions and I asked Judge Ledbetter to prepare a petition for voters to vote their choice between Guthrie, Oklahoma City and Shawnee. Our circulation solicitors obtained signatures to the petition from towns all over the state and an election was called.

A tremendous campaign was put on by the Oklahoma City Chamber of Commerce and other organizations and Oklahoma City led Guthrie by more than 50,000 votes and Shawnee had a very small vote.

A suit by Guthrie resulted in the State Supreme Court invalidating the election on the ground that the question as phrased by the attorney did not use the exact language of the statute. This meant a second petition and second election between Guthrie and Oklahoma City and again Oklahoma City triumphed by more than 50,000 votes.

In the meantime, Governor Haskell had moved the state offices to Oklahoma City and the Supreme Court of the United States upheld the right of a sovereign state to locate its institutions wherever the voters chose.

In October, 1908, a man named Thomas E. Wilson, who was executive vice president of the packing firm of Morris and Company, came to Sidney Brock, who was president of the Chamber of Commerce and said he wanted to build a packing plant in Oklahoma City, but wanted all arrangements made with just a few leaders and without any publicity.

A committee consisting of Sidney Brock, Anton Classen, John Shartel and myself was appointed to work up a contract with Mr. Wilson. About one o'clock in the morning we signed a contract guaranteeing to raise a bonus of $300,000.00 for Morris and Company to build a $3,000,000.00 plant southwest of the city.

Nothing was published and farms were bought and options on land around the site were obtained because it was planned to sell lots in a business district and residential districts.

The announcement was a sensation and $300,000.00 was pledged in two hours at a public meeting.

About one year later, Swartzschild and Sulzberger, another packing company, offered to build a plant adjoining the Morris plant and demanded a $300,000.00 bonus. The city agreed and the money was pledged in a few days.

A short time later, Thomas E. Wilson, who had left Morris and Company and organized his own packing company, bought out Swartzschild and Sulzberger and later on Morris and Company sold its plant to Armour and Company.

In 1906 *The Oklahoman* bought lots at the corner of 4th and Broadway. In January, 1909, we started clearing the lots and excavating at 4th and Broadway, after making a contract with a St. Louis firm to build the building. We were printing *The Oklahoman* at the northeast corner of California and Robinson, when suddenly, about eleven o'clock in the morning, there was a loud explosion of gas in the basement and fire started immediately.

We got everybody out of the building and the fire department was pouring water into the building from three sides. The fire burned the floor in the composing room and our five Linotypes crashed into the basement.

While the fire was still burning, I made arrangements to print eight pages for *The Oklahoman* in *The Times-Journal* plant and it was two or three weeks before we could replace the Linotypes and other machinery that was destroyed.

Our building at 4th and Broadway was practically complete October 1st, and we

moved in, occupying about half of the space. Hard times were coming on and we rented half the front office to a tire company and office space to other firms.

The city very much needed a new post office and the bankers, leading citizens and the Chamber of Commerce unanimously agreed it should be located on the west side of Harvey, between Grand and Main. This area was frequently flooded because there were insufficient storm sewers.

We sent a photograph of the area when it was under six or eight inches of water to the postal authorities at Washington. No one knew this. When the official came to select a location, he was given a unanimous recommendation of the Harvey location. To their astonishment, he rejected it and on his own motion selected a corner on the hill at 3rd and Robinson. Chamber officials and citizens were dumbfounded that it should be located three blocks from Main Street, and they never knew why.

We had nothing to do with the selection of 3rd and Robinson where the entire block is covered with the Federal courts and post office and the Federal Reserve Bank is across the street.

By 1910, *The Free Pointer* had taken a lot of advertising away from the newspapers and it had no news service other than a local reporter or two and carried about 90 percent advertising. It was injuring all the papers and we decided to launch a free paper called *The Free Press*. We made it a real newspaper, carrying as much or more news as *The Times* or *Oklahoma News* and it was distributed free. This made a flood of newspapers in the city and eventually *The Pointer* sold out to *The Times* and we suspended *The Free Press*.

The Times and *News* were both losing money and in 1915, *The Times* suspended publication and The Oklahoma Publishing Company bid it in at sheriff's sale for $30,000,000, but we received only its circulation list and name. Its other property was sold to liquidate indebtedness. *The Times* had about 10,000 circulation but now has more than 100,000.

We had been publishing a weekly *Oklahoman* but in 1911 we converted this to a farm magazine which is now called *The Farmer-Stockman* and published monthly. It now covers the three states of Kansas, Texas and Oklahoma.

Oklahoma City and the new state of Oklahoma were riding high on their rapid growth when they were struck by the worst drought in their history. The rainfall in 1911 was a little more than half of normal and crops dried up, cattle were starving and thousands of farmers abandoned their farms and many trekked to Arkansas or Tennesee in covered wagons. Their farms were left to the insurance companies who held the mortgages.

Many businesses closed and advertising and circulation were drastically reduced. There were 7,000 vacant houses in Oklahoma City. We had to cut wages and salaries of every person and reduced employment as much as possible.

There was a slow recovery during 1912 and 1913 and general pick-up in 1914 when World War I broke out.

In 1914, Governor Williams appointed a commission, of which I was a member, to build the state capitol. The legislature passed a law authorizing the building, but restricted it to three stories.

The architect planned a three-story building, but put in it a basement, and subbasement and a mezzanine, thus providing six floors in a three-story building. Otherwise, the capitol building would have had to use twice as much ground.

During the war years we were restricted on the use of newsprint and other materials and lost many employees to the armed forces.

During the summer of 1918, Roy Stafford sold his stock to the company, and I was elected publisher, editor and general manager, the positions I have held ever since.

The period from 1920 to 1929 was one of steady growth for our papers and for the city and state.

For more than 20 years the city had tried to get the Rock Island and the Frisco railroads to take their tracks out of the business district. Finally, a committee of three tentatively agreed with the railroads that freight trains would be routed around the city but passenger trains would remain. Trains frequently blocked traffic on Broadway, Robinson and other streets.

I was greatly disturbed and it occurred to me that both railroads were bankrupt and in the hands of a receiver and the Metropolitan Life Insurance Co. owned most of their bonds.

Mr. Ecker, the president, was a friend of Frank Buttram, and they were partners in some oil wells.

I asked Mr. Buttram to see if Mr. Ecker would order both companies to remove the tracks. He immediately took the matter up and Mr. Ecker said, "Of course, Oklahoma City ought to have the tracks moved," and he ordered the officials of the roads to make the best deal they could, but remove the tracks.

In 1929 the city voted $4,000,000.00 and purchased about 20 acres, including land for the Civic Center and Couch Drive.

A fabulous Christmas present came to the city on December 24, 1928, with the discovery of an oil field within the city limits.

The financial panic covered the country in 1929 but our oil field boom helped carry us through the depression years.

Early in 1930 the railroads cut off many passenger trains, delaying or destroying our means of delivering newspapers throughout the state. There had been a morning and afternoon train to Lawton and as a substitute, one train left the city about ten o'clock in the morning, too late for *The Oklahoman* and too early for the afternoon *Times*.

Our circulation department was forced to buy or lease trucks but the business was too great to be handled by the circulation department and we incorporated Mistletoe Express in 1931. Mistletoe not only took care of the delivery of our newspapers, but it handled merchandise of every description from retailers and manufacturers and for years it has covered not only Oklahoma, but expanded into four other states. It now has terminals in fifty or more important cities. Its service is a great asset to many businesses in the Southwest.

In 1932 President Franklin Roosevelt was elected and immediately closed all banks nation-wide. Again the Chamber of Commerce issued scrip which was used in lieu of money until the banks reopened. Oklahoma was afflicted with a drought in the years from 1932 to 1936 and business was depressed nation-wide until 1937.

In the early 1930's the Associated Press was developing the wire photo to transmit photographs by telegraph. Experiments had been going on for a long time and one day in 1934 I was in Dallas and was paged in the hotel. The manager of the AP in New York told me that they could give service to *The Oklahoman* and only 14 cities would be on the line to start with.

We could get on the Continental wire going through Kansas City to the west coast.

I asked the cost. Roughly it was $39,000, plus the cost of the operator and the zinc metal for the pictures. I said, "Well, roughly that will be $50,000, but we will take it."

The Oklahoman thus was a charter member among only 14 cities.

Some months after this I met the publisher of *The Tulsa World* and he asked how in the world we could afford to spend $50,000 for wire photos. I said, "That was not the question—the question was how could we afford to do without them."

It was several years before Tulsa got the service.

The Oklahoma News, without previous notice, suspended publication in February, 1939. It had operated for 36 years and had lost money in 33 of those years.

This left *The Olakhoman* and *The Times* as the only daily papers published in Oklahoma City until 1964 when *The Oklahoma Journal* began publication as a morning daily, which is still in the field.

After Pearl Harbor, the government was frantically trying to build military installations, including an air materiel depot in the Southwest. Stanley Draper, the managing director of the Chamber of Commerce, had anticipated this and had contacts with the big brass of the Air Force in Washington.

Two Air Force officers were sent here with a list of five locations, Oklahoma City being No. 1. They refused to meet with a committee of the Chamber but asked for one man to consult with them for a week. At weekend, at nine o'clock in the morning, they brought in a list of demands which had to be fulfilled by four o'clock the same day. Their demands included a gift of 490 acres and options on additional land, an eight-lane concrete road six miles east of Capitol Hill, 40 miles of state highway graded and graveled, a 24-inch water main from a city water supply, the removal of al. pipelines and obstructions from the site, a railway line built in to serve the plant and numerous other requirements.

They assumed that it would be impossible for Oklahoma City to fulfill their demands and they bought tickets to Wichita, where they had friends and hoped to locate the air depot.

Stanley Draper, who has done more to expand and upbuild Oklahoma City than any other person, took charge with the aid of Mayor Hefner and a few others and a written guarantee covering each requirement was handed to them at four o'clock. They were dumbfounded and Tinker Field was located in Oklahoma City.

This was a tremendous boost to the employment and the population of Oklahoma City, the creation of Midwest City and other suburbs and the biggest lift to Oklahoma City's economy which had ever occurred. It was accompanied by a government arrangement with Douglas Aircraft to build a manufacturing plant which produced 5,700 DC planes during the war.

Tinker started with an estimated payroll of about $40,000,000.00 and in recent years with nearly 30,000 employees, the payroll is nearer $250,000,000.

It is impossible to list the scores of other industries which have come to Oklahoma City since, including the FAA center, but in the census of 1960 there was a population of 535,000 within 20 miles of the state capitol building. In 1970 we had grown to at least 625,000.

The Oklahoma Publishing Company's growth accelerated right along with that of Oklahoma City. It not only quadrupled the size of its printing plant, but established a chain of broadcasting properties which began with the acquisition of WKY Radio in 1928.

We built studios and a transmitter and went on the air November 11, 1928. It was bound to lose money because few people had receiving sets and radios cost as high as $500.

It was nearly two years before it became profitable. It was the first commercial radio station in the state.

In 1948 many states had no television stations. The Federal Communications Commission was practically begging people to take out a license and begin broadcasting televised programs.

The Oklahoma Publishing Company decided the state ought to have a television station and applied for a license. We expected the usual red tape would take several months, but the license came almost by return mail. We then had to build studios and a transmitter before anyone had a television set.

When the programs went on the air, people began buying receivers but too few in number to pay the expense of operation.

WKY was the first television broadcasting station in the state and it had to operate a considerable time before it paid expenses. A few years later, WKY was one of the first in the country producing programs in color.

In February, 1955, we purchased and operated a station in Montgomery, Alabama, which we sold in September, 1959.

In 1956 we purchased a television station in Tampa-St. Petersburg which we continue to operate. In 1962 we contracted for a station in Fort Worth which covers the Dallas-Fort Worth area and in 1964 we bought a station in Milwaukee. In 1966 we bought a station in Houston, Texas, all of which we are operating.

The recent decades of the 1950's and the 1960's were periods of very rapid and substantial growth for Oklahoma City and the state and likewise for The Oklahoma Publishing Company. This record is well known to you.

This story will have to be deplorably incomplete because it should contain the names and activities and accomplishments of hundreds of prominent citizens who fashioned and molded Oklahoma as it is today. Likewise, it is my great personal regret that I cannot list here the names and the invaluable services of hundreds of men and women who created what is The Oklahoma Publishing Company and its thriving subsidiaries. If I were to mention even a few of the able and devoted staff members whose work helped establish the reputation and career of this company, I would be doing a great injustice to the hundreds of others not included who were just as eager and helpful in building this company's foundation.

For that reason, I am mentioning only my son, Edward L. Gaylord, who for 15 years has been executive vice-president and who one day will take over my position.

At some other time and in some other way I hope to pay due credit to literally the thousands of employees who have built up this company in the past 68 years.

In its entire history, Opubco has fought under the banner of honesty in government, progress in education and culture, high standards of morality, generosity in philanthropy, betterment of social conditions and the steady improvement of economic conditions.

"Actorum Memores simul affectamus
Agenda!"

E. K. Gaylord: "In its entire history, Opubco has fought under the banner of honesty in government, progress in education and culture, high standards of morality, generosity in philanthropy, betterment of social conditions and the steady improvement of economic conditions."

REMARKS OF SENATOR MONDALE ON BEHALF OF THE DEMOCRATIC LEADERSHIP OF CONGRESS IN RESPONSE TO PRESIDENT NIXON'S MESSAGE ON HUMAN RESOURCES

Mr. MANSFIELD. Mr. President, last Friday, Senator WALTER F. MONDALE delivered an address on radio at the request of the Democratic leadership in response to the President's radio message on human resources.

The presentation by Senator MONDALE represents fairly and fully the questions that must be faced by the Congress in determining where this Government shall place its emphasis in the matter of human resources.

I ask unanimous consent that this address be printed in the RECORD.

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

MARCH 2, 1973.

Mr. MONDALE. Good afternoon.

Last month President Nixon submitted his budget proposals. Last Saturday, in a nationwide radio address, he defended his proposals for human resources.

The Congressional Democrats have received equal time and I have been asked by the leadership of the Congress to present our response.

There are some things in the President's message which we all agree with, and are proud of. We *have* made important advances in social security, medicare, higher education, human rights, cancer research, reducing hunger and elsewhere.

All of these came about through cooperation between the President and the Democratic Congress.

But most were Democratic initiatives. And many . . . including the 20 percent Social Security increase . . . were initially opposed by the President.

We have often disagreed with the President's proposals; he has often disagreed with ours. But when there has been a will on both sides to work together, programs have been enacted that have benefitted all Americans.

This is as it should be.

But now the President is challenging both our shared commitments . . . and our tradition of cooperation and constitutional government. And he is doing it in a way that is causing confusion and uncertainty across the nation.

This past week, mayors and governors came to the Congress to tell us they don't know where to turn. They know they'll be getting less help next year, but they don't know how much less . . . and the White House won't tell them. Those in the Executive Branch who will talk don't know the answers. And those who know won't talk.

It's ironic that this Administration talks so much about returning power to the local level . . . when they concentrate so much power in a small group of anonymous Presidential aides. The most fundamental decisions affecting the Amrican people are now often beyond the reach of State officials, local officials, and even the Congress.

The President's real message is not in his speech. It is in his budget. Where a government puts its money tells the truth about its commitments.

The President's budget calls for severe cutbacks in our existing investments in decent housing . . . employment . . . education . . . health . . . the poor and the aged . . . the family farmer

This budget would, among other things, eliminate 180,000 desperately needed jobs . . . end federal aid for low and moderate income housing . . . slash health research, aid to education, medicare benefits for the aged . . . and abolish practically every effort to strengthen rural America.

While nearly 100 programs to help people would be destroyed, the defense and foreign aid budgets would rise dramatically . . . and not a single tax loophole for the rich would be closed.

The President claims that our investment in human resources is increasing. But these increases are in the social security program, which is separate and self-supporting. They are not inflationary because they are fully funded by the payroll tax. And we have passed most of them over the President's objection.

Aside from social security, this budget is nothing less than a disaster for people

Can you imagine recommending that hospital charges for most older Americans under Medicare be doubled?

Can you imagine ending this nation's Community Mental Health Centers?

Can you imagine cutting job training programs by 29 percent in two years and abolishing public service employment?

Can you imagine reducing aid to our public schools?

That is what this budget does.

And the President has not just proposed cutbacks for Congress and the nation to consider, as Presidents have done in the past. In many cases he has simply gone ahead on his own . . . often in direct violation of the law. This has caused enormous confusion and uncertainty . . . and created one of the most serious constitutional crises in America's history.

He is impounding . . . without legal authority . . . half the funds for pollution control enacted by the Congress over his veto.

Without consulting Congress, he is destroying the poverty program which he asked the Congress to continue . . . and he signed into law . . . last fall.

By executive order he has ended virtually all of our housing and rural development programs.

We are not witnessing a policy of restraint. We are witnessing a retreat from our commitment to social and economic justice.

As one major newspaper said recently:

"This is a break with more than forty years of an essentially liberal momentum supported by the dominant elements in both parties, that has carried this nation forward to a more just and humane society within the framework of enlightened capitalism."

It is a call to abandon our national commitment to a better life for ordinary Americans . . . and especially the poor. It is telling us to ignore the difficult problems we've had the courage to face . . . and to forget our efforts to build a more decent America.

Yet this is the time . . . with the war ending . . . to return to our nation's fundamental pursuit of human justice.

It is a time, as John Kennedy said twelve years ago, for Americans to ask "not what your country can do for you—but what you can do for your country."

It is *not* a time, as we heard the President say last month, to ask "What can I do for myself."

As a prominent economist said:

"Instead of restoring self-reliance, President Nixon is putting self-interest on a pedestal. Instead of restoring confidence in government, he is inviting contempt for government in general and Congress in particular. Instead of focusing efforts on a higher quality of life, he is appealing to instincts of crass materialism. . . . But somehow a crusade to think small, think simple, and think selfish does not strike me as the best path to either personal salvation or national greatness."

And I agree.

The Administration asks us to forget our commitments to people . . . and to spend the money elsewhere. They propose an increase to $10 billion for military and other foreign aid. They want $8 billion for new Pentagon spending as the war ends. And we're told they may ask for $7½ billion more for the two Vietnams.

Yet their budget contains no proposals to close loopholes through which the wealthy escape their fair share of the tax burden. It doesn't deal with cost overruns in military spending. It conceals subsidies for executive jets and business lunches.

One commentator said, "This is free enterprise for the ordinary citizen . . . and socialism for the rich."

If a farmer needs disaster relief, he's on his own. But if a major corporation loses money, we're expected to bail it out.

And who pays for all this? The ordinary taxpayer who has no loopholes.

We need to take a tough look at this budget. The American people cannot afford to repeat the deficits of recent years.

I agree that we must look for waste in "every nook and cranny of the bureaucracy." I agree we must "get rid of old programs that have outlived their time, or that have failed."

And I agree with the tests the President proposed last Saturday . . . to get more value out of every tax dollar . . . and to make our delivery system more efficient and less paternal. I don't know anyone in Congress who is opposed to reforming our programs, and making them more effective.

But *every* budget item must meet these tests. Waste, inefficiency and out-moded programs are not found only in agencies that deal with human needs.

Sure we've made mistakes. And some human programs have not worked. But getting rid of programs doesn't get rid of problems. And a program that doesn't work perfectly may be better than no program at all.

And sometimes we promise too much. But the answer to overpromising is to tone down the rhetoric. The answer to failure is to find new approaches which will work.

And even conceding these difficulties, with the help of thousands of dedicated public servants—who deserve our praise—these programs have accomplished an enormous amount for the people of this country.

In the last decade alone, 15 million people have been helped out of poverty;

In the last 20 years, the number of young people attending college has doubled.

And who can forget . . . the comfort Medicare has brought to millions of old people who used to suffer alone and uncared for . . . the hope and the jobs our expanded education programs have provided to thousands of Americans . . . and the opportunities for a fuller life now available to handicapped children and adults throughout this country. And this is not a full list by any means.

The issue is clear. We can continue our commitment to social and economic justice . . . or we can turn away. The President has made his recommendation. His budget comforts the comfortable. But when it comes to helping those in need, it says, "If at first we don't succeed quit."

We must do better than that.

Of course, there are limits to what we can afford. And as practically everyone in Congress agrees, we must establish a non-inflationary budget ceiling. But we will not forfeit Congressional responsibility to decide how funds are spent within the ceiling. We will not give any President absolute power over how your money is spent.

If we take a tough look at every proposed expenditure . . . we can easily save $8–$10 billion in military waste . . . foreign aid . . . tax giveaways . . . and inefficient social programs . . . Over $3 billion could be raised by simply ending super depreciation breaks for big business. And we could responsibly cut Pentagon waste by $5 billion . . . especially now that the war is ending.

I believe we should invest these hard-earned tax dollars wisely . . . in carefully designed programs meeting human needs.

We cannot do everything at once. But we can begin bringing health care within the reach of every American family . . . strengthening our rural and urban communities . . . improving housing opportunities.

And we can begin . . . mounting an effective campaign against crime . . . reducing pollution . . . cutting unemployment . . . improving education . . . and bringing dignity to the sick and the aged.

With these savings we could:

Find public service jobs for 300,000 unemployed Americans.

Double Head Start . . . bringing hope and opportunity to another 500,000 young children.

Prevent the proposed new hospital charges for Medicare . . . and roll back monthly Medicare premiums.

Ease the financial crisis in public education . . . and relieve the growing pressure on the property tax.

Restore disaster aid and housing programs.

Turn the tide against crime by expanding police protection and improving our criminal justice system.

And protect our environment to the fullest extent of the law.

These are the kinds of investments we need. They stand the test of helping people. And that's what our government should be all about.

We can make them . . . or investments like them . . . and honor our national commitment to human justice.

Or we can accept the Administration's budget . . . and accept its decision to abandon that commitment, begun so many years ago.

This is an old debate for Americans. We've all been a part of it. Those who fought against Social Security and rural development in the 1930's . . . or against Medicare and aid to education in the 1960's . . . used the same argument we're hearing now. "These aren't national problems," they claimed. "We don't know how to solve them. And we cannot afford to try."

My answer is the answer Franklin Roosevelt gave to these same arguments 40 years ago:

"Government can err," FDR said. "Presidents can make mistakes, but [we are told that] divine justice weighs the sins of the coldblooded and the sins of the warmhearted on a different scale. Better the occasional faults of a government living in the spirit of charity than the consistent omissions of a government frozen in the ice of its own indifference."

No matter how hard we try, we will make some mistakes. But with your help we can apply the power, the strength, the wisdom and the spirit of our great country to the solution of the problems of our people. Please give us your help.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Mr. CURTIS. Mr. President, the Occupational Safety and Health Act of 1970 is continuing to haunt the Congress of the United States and will do so until some far-reaching changes are made in that law.

For Senators who may think that the storm of protest is over, and that no one is fighting any more for the changes which were successfully bottled up in the Labor Committees of the House and Senate last year, I have some unwanted news.

The first news to which I would call your attention is an article that appeared in the Wall Street Journal on February 20.

The article, by Michael Jett, was published under the headline, "New Job-Safety Rules Perplex the Owners of Small Businesses; 'Needless' Costs Cited." Above the main heading appears an overline which declares descriptively, "An Asinine Situation."

Second, I would point out that the Government of the United States has either dismissed the penalties or agreed to compromises, greatly reducing them in every instance to date where the constitutionality of the act has been challenged by accused persons, and the Government has done this in each instance, just short of allowing the constitutional issues to go to trial.

Government lawyers who would have to defend the Occupational Safety and Health Act do not want a court confrontation on the constitutional issues. They know they have got a bear by the tail if the issues ever get to court, and I will tell you why.

The Occupational Safety and Health Act delegates to administrative authorities in the Department of Labor the power to impose extremely high punitive fines for past violations without ever going to court. It goes beyond any law ever previously enacted by Congress in its wanton delegation of legislative and judicial powers to the executive branch.

The act allows no judicial body below the Federal Court of Appeals to take jurisdiction in a case. It provides no trial by jury for the accused.

Cases challenging the act's constitutionality have been refused by both the Federal Appeals Court and the U.S. Supreme Court on grounds that administrative remedies have not been exhausted. Yet there is no way that administrative review boards or commissions can rule on issues of constitutionality—they have no such powers and fortunately have not yet been bold enough to try to assume them.

In the face of this dilemma, the administrator-prosecutors of OSHA and their lawyers have slashed penalties and dismissed charges to avoid all confrontations in court. They have refused to go to court whenever an accused person has stood up to them.

Under these circumstances, Mr. President, I would hope that Congress will act soon to modify and correct the act. I intend to offer a bill to do so in the near future. My bill is in the drafting stage. I will make it available for cosponsors because I know of the great interest which has carried over from the thousands upon thousands of complaints received by Members of the Senate during the past 2 years.

In the meantime, I would advise anyone who gets socked with a steep fine by the Labor Department or any of its OSHA review examiners or commissions to fight to get the case into court. The constitutional issues need to be aired and acted upon. Until the administrator-prosecutors and their lawyers are willing to face those issues in court, or until the law is changed so they can face them, the penalties will continue to be reduced sharply or dropped. The law is faulty, and the fault is with Congress.

I respectfully request at this point that the Wall Street Journal article of February 20 be printed in the RECORD.

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

"AN ASININE SITUATION"—NEW JOB-SAFETY RULES PERPLEX THE OWNERS OF SMALL BUSINESSES, "NEEDLESS" COSTS CITED

(By Michael Jett)

Henry Weast of Dahinda, Ill., is quitting the heavy-excavation business. He says he can't afford it any more.

It isn't that the business wasn't profitable. It was a steady money maker, and in Mr. Weast's view, it might have continued that way for a long time. It might have, except for one thing—OSHA—more formally known as the Occupational Safety and Health Act of 1970.

Among other things, that massive piece of safety legislation would have required him to spend $150,000 to install safety devices on his equipment to protect operators in case the machinery toppled over. "It just looked like there would have been no end to spending money," says Mr. Weast. "If I had fixed up one thing, they would probably have found something else."

As a result, Mr. Weast and his two partners have already dismissed 20 employes and they are currently trying to sell their machinery. From now on, they plan to continue selling sand, gravel and other building materials, but that end of the business accounted for only about 20% of their total $1.5 million volume last year.

COSTLY AND "FOOLISH"

The reaction of Mr. Weast and his partners to the stringent new regulations may have been drastic, but their quitting the excavation business illustrates one effect the law has had on countless thinly capitalized small businessmen across the country. In a variety of ways, small businessmen say, the OSHA regulations—covering safety matters ranging from hard hats and guard rails to exit signs and safety posters—are causing widespread confusion, anger and frustration.

At the core of their problem, they contend, is the fact that practically every regulation—and they brand many of them foolish—requires them to spend money on measures that don't contribute to either safety or efficiency. Moreover, they complain, many of the highly technical regulations are incomprehensible to the layman. And even if the rules can be understood, these people add, compliance is difficult. In fact, by some estimates, as many as 20,000 specific rules and regulations apply to any single work establishment.

Indeed, the sheer bulk of the regulations is intimidating, and countless businessmen say that after they have waded through them all, they're hopelessly confused. Marvin Krauss, a furniture shop owner in South Amana, Iowa, says: "There are about 300 pages with pretty small print in the construction standards, and it's pretty darned hard to pick out exactly what fits you sometimes. You almost have to have a lawyer to figure it out."

Such complaints are becoming routine for officials charged with overseeing and enforcing the act. An OSHA spokesman says, however, that "some over-reaction" is to be expected. "Most of the complaints from small business people arise not from actual inspections, but from the fear of what might happen should there be one," he says. Unless there has been an accident or a complaint by an employe, the OSHA man says, smaller concerns are much less likely to be inspected than larger firms. He adds that if a small businessman finds himself in a financial pinch as a result of the regulations, he can always apply for a small business administration loan, as provided in the act.

Due in part to the confusion and lack of understanding of some of the overlapping rules, numerous small businessmen are reluctant to talk for attribution—they're worried about what might happen if an OSHA inspector should see their names and then decide to drop by. "I'd hate to meet Mr. OSHA tomorrow because of my discussion with you," says a Midwest farm-equipment dealer who has spent nearly $100,000 on new equipment and repairs to satisfy safety rules. "We'll only know if we can really comply after somebody tears us apart." Like many other businessmen, he replaced a number of round toilet seats with horseshoe-shaped ones before OSHA rescinded the toilet-seat rule.

"AN ASININE SITUATION"

According to Herbert Liebenson, legislative vice president of the National Small Business Association, many of the fears expressed by small businessmen arise "because the Labor Department has done a very poor job of notifying people what to expect under the law." In fact, many businessmen say they still don't understand how the law is administered, and they worry they will have to answer to inspectors who know almost nothing about their particular type of business.

"OSHA worries the hell out of me," says Ralph Zuber, manager of a furniture store in Amana, Iowa. "I want to comply, but I've got to keep making a living. Did you know we've even got to paint the electrical outlets orange? Why, I don't know."

Adds James Curless, an International Harvester franchiser in Fairmount, Ind.: "It becomes an asinine situation. The dangerous facets of our business are virtually beyond anyone's control. One of our employees got hurt when he bumped the automatic transmission lever on a tractor and it rolled over his leg. No laws can cover anything like that."

What angers many small businessmen the most, however, is the cost of complying with the regulations. "I spent about $250,000 for four new punch presses, to enclose a conveyor, some electrical work and other things," says the owner of a metal fabricating shop in the Southeast, "and I don't think it did any good for safety or production. The punch presses, costing $15,000 to $30,000 apiece, had to be replaced only because they were too noisy. Those machines had been declared literally unusable."

COST MAY BE HIGHER

A survey of its members by the National Association of Manufacturers shows small concerns of one to 100 employees estimate it will cost them about $33,000 each to comply with the act. But that figure may not tell the whole story. Kenneth E. Schweiger, the association's director of employee relations, says the real cost to the small businessman is probably much higher. "He doesn't know what's expected of him," says Mr. Schweiger. "Smaller business has grossly understated estimates of the cost."

Further, once the money is spent, employers still can be sure if they're in compliance. "I spent $125,000 directly to meet the law," complains a Mid-western contractor. "And after I spent the money I was inspected three times and was fined every time for some minor violations. There's no way I can meet the letter of the law as it's written."

When it comes to spending the money many small businessmen are faced with a dilemma—what to try to get done first and what to try to get by with. "There's no consistency from one plant to another," complains the owner of several small woodworking factories in the Midwest. "I've been fined at one plant for something that has been overlooked at another. One will come through with flying colors and another will be penalized."

Businessmen "don't know which way to jump," Mr. Curless, the Harvester dealer, says. "They try and do a little at a time and hope that when the inspectors come they won't be too severe. We asked our insurance man to come out and inspect us. He said the way interpretations of the rules change so often, he couldn't even give us a decent inspection."

"I'D PROBABLY . . . GO HOME"

"We've got to write our own ticket," says Bruce Martin, assistant executive manager of the National Roofing Contractors Association. "You can't comply with all of it. What we did was to take the construction regulations and got it boiled down to about six pages of the most important standards and told our guys to try to comply with these."

And some are going to try to get by without doing anything at all. "I'd just run myself nuts if I tried to comply," says an Illinois heating and air-conditioning contractor. "I've only got three employees, and in a small business everyone has to be a money maker and that (complying with regulations) would be a fulltime job. If an inspector walks in here, I'd probably just hand him the keys and go home. It would be giving up a lot, but it's not worth the worry and frustration."

Whatever problems the act is causing businessmen around the country, there are still some who must be delighted with the law—a good hard look," says Mr. Liebenson of the National Small Business Association, "and the economic benefits will go to the insurance and safety equipment companies."

"Many problems for the small businessmen," he adds, "came about because of the sales techniques of companies selling products for OSHA regulations. They became freightened and started protesting."

"We have spawned new enterprises in a variety of ways," George C. Guenther, former assistant labor secretary, told a House subcommittee on small businesses last June. "We would hope most of them are wholesome, but certainly there may be those whose consultative services are at less than desirable levels."

Still others may find themselves beneficiaries of the law. Many employers are going to be spending a lot of money on lawyers if they want to appeal a fine they feel was undeserved. Small businessmen, almost never have a lawyer on their staffs.

W. C. Williamson, co-owner of an Atlanta roofing company, was fined $600 after an employee was killed when he fell through a hole in a one-story building the company was working on. Mr. Williamson says the man was shown the hole and told not to remove the cover unless there was a foreman present. "Why he took the cover off and exactly how he fell through the hole aren't known, but Mr. Williamson thinks he did all he could to protect the man. "I'm going to spend about $2,000 to fight a $600 fine," he says, "but it's the principle of the thing. It would be the same thing if they fined me if he drove his car into a telephone pole on his way to the job."

"It's going to be a full-employment act for lawyers," says Lawrence Stessin, editor of a newsletter dealing with the OSHA regulations. It isn't going to hurt Mr. Stessin either. After sending out a sample issue last October, he was swamped with 30,000 subscriptions in one month. "We're just inundated" with requests for information and subscriptions, he says.

With all the confusion, some shady characters are bound to jump at the opportunity to take advantage of the situation. "The three latest rackets," Mr. Stessin says, are men posing as OSHA inspectors who are actually industrial spies, potential burglars figuring out a plant's security or con men who talk the owner into offering him a bribe for not imposing heavy "fines."

POST OFFICE BOX NUMBERS

Mr. CASE. Mr. President, I ask unanimous consent that an article appearing in the New Jersey Vailsburg Leader concerning Post Office box numbers be printed in the RECORD.

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

POST OFFICE PROTECTS CONSUMER FROM "ANONYMOUS" FIRMS

Consumer who buy from a firm using a Post Office box number as its address can now obtain the name, address, and phone number of the box holder from their local postmaster.

In the past, consumers sometimes experienced problems when they bought by mail from a firm whose only advertised address was a post office box.

If the consumer was dissatisfied with the purchase or if he experienced nondelivery, he

had no way of communicating directly with the seller.

Assistant Postmaster General William J. Cotter has advised Richard Givens, Federal Trade Commission regional director, that, according to the Post Office legal department, "under current regulations postmasters may disclose names, addresses, and telephone numbers of post office box holders when it is known that such boxes are being used for the purpose of doing or soliciting business with the public.

"When the holder has indicated on the box application his intention of using the box for commercial purposes, or when an inquirer presents documentation of such use such as an advertisement soliciting business at the post office box address—this information may be revealed to any interested party."

If there is doubt as to whether the box is being used commercially, the information will be delayed until a determination has been made.

ADMINISTRATION POLICY BAD FOR RURAL AMERICA

Mr. McGOVERN. Mr. President, the actions of the administration to terminate farm price supports and rural assistance programs, and to cut back severely on those which remain, have been discussed and debated in this body and elsewhere since the Congress convened.

One of the more eloquent statements on these terminations and cutbacks, and their effect on rural America, is contained in a column by Jerry Voorhis, a former Member of Congress and former president of the cooperative league.

Because of its eloquence and force, I ask unanimous consent that the column be inserted in the RECORD.

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

THE HUMAN SIDE OF THE MARKET PLACE

(By Jerry Voorhis)

The Nixon Administration's program for American agriculture is now clear enough. It is—in a nutshell—the liquidation of the owner-operated farm and replacement with corporation agriculture.

During the Christmas holidays the program was announced.

No more soil conservation program.

No more water conservation program.

No more disaster loans to farmers suffering severe crop damage.

No more rural housing loans though more than half the sub-standard housing is in rural areas.

Drastic lowering of price supports.

Increased imports of farm products.

An 80 percent increase in interest rates on commodity loans.

And most cruel of all a repeal of the Rural Electrification Law and requirement that rural electric cooperatives pay interest rates of 5 percent instead of the lawful 2 percent on loans for REA.

This clever device will force many of the cooperatives to sell out to private power companies. It will increase costs of production for farmers and living costs for all rural people. It will increase food prices to consumers.

But the big private power companies will be pleased and greatly benefited.

Unless Congress asserts itself and stands up to the executive and reverses these disastrous proposals their effect will be virtually to repeal, by arbitrary executive order, the Rural Development Act, passed by the last Congress and signed by Mr. Nixon.

For what the Administration is proposing is to subvert the basic purpose of that act and to use it as a rural depopulation and depression act instead of a rural development act. The act was certainly not intended to *supplant* existing programs—rather to *supplement* them.

Mr. Nixon is trying exactly to reverse that Congressional intent.

The American pattern of Agriculture based on the principle that he who tills the soil shall own it has created the most efficient production unit known to man the owner-operated scientific farm.

That American pattern will be destroyed unless the purposes of the Administration are reversed by determined action of the Congress of the United States.

In our next column we will discuss an example of how, through their cooperatives, farmers and rural people can fight back effectively—in fact how they are doing so already.

IMPOUNDMENT OF FUNDS

Mr. SCOTT of Pennsylvania. Mr. President, last week a narrow majority of the Foreign Relations Committee approved language tying the President's authority to spend money on foreign assistance programs to the release of unspent domestic program funds. I was interested to note that even among those who question the President's authority to impound funds, there is the view that this is an inadvisable method of dealing with the issue.

An editorial published in the February 28 issue of the Baltimore Sun exemplifies this view and I ask unanimous consent that it be printed in the RECORD.

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

NO WAY TO BEAT IMPOUNDMENT

At the urging of Chairman Fulbright, the Senate Foreign Relations Committee has narrowly approved a measure that would forbid the President to spend money for foreign assistance as long as he was refusing to spend funds voted by Congress for domestic purposes. Senator Fulbright has said several times over the past few years that he questions the wisdom of spending overseas when problems at home are going unsolved.

We don't think this is the best way to go about trying to establish a balance between foreign and domestic obligations. For one thing, it probably won't work. The administration can just keep running foreign assistance programs under old laws until the new budget year begins. Even if the President should then acquiesce in the committee's demand, he could still impound funds. Two years ago when a similar situation arose, Mr. Nixon just timed things right, then released one year's impounded funds and immediately impounded more. We believe, as does Senator Fulbright, that a serious and dangerous problem lies at the heart of presidential impoundment used on a scale and for purposes such as those now involved. But we don't believe the Foreign Relations Committee's way to handle it is the best way. This is guerrilla warfare. Foreign aid deserves to be considered on its merits, as the domestic programs deserves to be on theirs. Provisional budgets (if A then B, but if C . . .) are no answer to anything.

SIOUX FALLS ATHLETIC DIRECTOR HONORED

Mr. McGOVERN. Mr. President, I am greatly pleased to note that a constituent of mine, Mr. Wallace M. Diehl of Sioux Falls, has just recently received one of the highest honors open to secondary school athletic directors.

Wally Diehl is one of the six athletic directors nationwide who will complete for "Athletic Director of the Year," a recognition program sponsored by the National Council of Secondary Athletic Directors and Schering Corp. He was chosen from among 30,000 members of his profession throughout the country.

This is a highly deserved honor for Wally Diehl, who continues as an outstanding leader in sports not only in Sioux Falls but throughout the State and the region.

Mr. President, I have a statement announcing this award and describing more of Mr. Diehl's fine record; and I ask unanimous consent that it be inserted at this point in the RECORD.

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

WALLACE M. DIEHL, SIOUX FALLS, S. DAK., CHOSEN AS NOMINEE FOR ATHLETIC AWARD

WASHINGTON, D.C.—Wallace M. Diehl, athletic director of the Sioux Falls, S.D., public school system for the last 24 years and meet director of the Howard Wood Dakota relays for 25 years, has been chosen as a semi-finalist for one of the highest awards in his profession.

He was selected as one of the six regional winners who will compete in the second annual "Athletic Director of the Year" award program on the secondary school level.

The program is co-sponsored by the National Council of Secondary School Athletic Directors (NCSSAD), with offices in Washington, D.C., and Schering Corporation, a pharmaceutical firm.

More than 30,000 secondary school athletic directors throughout the country were invited to submit applications.

Wally, who holds a B.A. degree and an M.S. degree from South Dakota State University, Brookings, S.D., and was a Lt. Colonel in the Air Force during World War II, will represent the central region of his association in the final selection on April 12 before an independent panel of judges who are nationally prominent in sports and education. The national award will be presented at the annual convention of the American Association of Health, Physical Education and Recreation (AAHPER) to be held in Minneapolis, April 13–17. NCSSAD is a division of AAHPER, an affiliate of the National Education Association.

Purpose of the awards is to give recognition to secondary school athletic directors, totaling more than 30,000, who exemplify the highest standards of their profession and who, through their influence on the lives of young people under their direction, have made significant contributions to their schools and communities.

LONG LIST OF APPLICANTS

Wally Diehl was selected from a long list of applicants in his region by a selection committee composed of: R. H. (Bud) White, Director of Athletics, Iowa City Community Schools, Iowa City, Ia.; Willis Jones, Athletic Director of Beatrice High School, Beatrice, Neb., and Lloyd Dobratz, Principal, Lincoln High School, Sioux Falls.

Wally Diehl, who, at present is athletic director of two high schools and four junior highs, is the driving force behind all athletics in Sioux Falls, which has a population of 80,000. Since it is South Dakota's largest city, it has the finest athletic facilities in the state and therefore is called upon to sponsor most of the large athletic events. Whether the school or the city sponsors the event Wally Diehl is always called upon to administer the program.

Writing to the judging committee, Mayor M. E. Schirmer of Sioux Falls said, "probably one of his major accomplishments has been

the management and promotion of the State A. and B. Basketball Tournaments held in Sioux Falls for the last 10 years. Without question, there is no tournament that runs more efficiently, bearing in mind the interest of students primarily as well as the general public. During this time Wally has without a doubt supervised approximately 100,000 people, at one time or another."

MANAGES STATE TOURNAMENTS

This year marks Wally's ninth straight year as manager of both of South Dakota's high school basketball tournaments.

"These tournaments," wrote D. W. Evans, Executive Secretary of the High School Activities Association, "fall on successive three-day weekends and require a tremendous amount of planning, supervision and work. Wally oversees everything from the sale of tickets to the organization of half-time entertainment."

Track and field is where Mr. Diehl has made some of his finest contributions to sport in South Dakota.

As manager of the Howard Wood Dakota Relays, now in their 47th year, Wally Diehl has gained tremendous experience. Again he does the planning, organization and operation of the entire meet, now recognized second only to the outstanding Drake Relays. This year's meet has again attracted more than 1,500 athletes from a five state area representing 125–130 universities, colleges and high schools.

The meet was founded by Howard Wood in 1923 as the Dakota relays. Following his death, Mr. Wood's name was prefixed as part of the official name of the relays in memory of the man who served as coach of all sports and as athletic director of the Sioux Falls public school system from 1908 to 1949.

MANY NOTED ATHLETES TOOK PART

Through the years, fans who have attended the meets have seen the best performers from the surrounding area and many of the nation's top track and field starts. Names from the past include Joie Ray, famous sprinter from the University of Illinois; Major John L. Griffin, former Big Ten Commissioner; Frank McCormack, former Pacific Coast Commissioner; Jim Kelley, University of Minnesota and U.S. Track Coach, and two all-time South Dakota track greats, Joe Mendel of Onida and Weert Engelmann of South Dakota State University.

Wally Diehl was the first man from outside the National Association of Intercollegiate Athletics membership to be elected to the NAIA Hall of Fame in Track.

Wally also was the responsible administrator during the development of a beautiful multi-purpose city arena, a beautiful and functional combination football stadium and track, as well as numerous play and practice fields and gymnasiums for the city's junior high schools and elementary schools.

In addition to in-depth program for boys, Wally has developed and started a competitive program for girls. There are interscholastic teams in track, tennis, golf and gymnastics, plus intramural teams in basketball and volleyball. Part of the problem in launching this program is sufficient facilities; they were designed for boys, and obtaining funds to rectify this is one of his key objectives. "But we are underway," Wally said, "and that's what counts."

He has three married children—Mike, Peggy, and Beth—and six grandchildren, and resides with his wife, Medora, at 2213 South Hawthorne Avenue, Sioux Falls.

GHANA—16TH ANNIVERSARY

Mr. AIKEN. Mr. President, I am glad to call attention to the 16th anniversary of the creation of the country of Ghana.

I do so with full knowledge of the distinguished ancestry of the name, Ghana, which in ancient days applied to a large portion of West Africa.

However, like the Government of Ghana itself, we are looking at today's achievements and we are looking toward the future—rather than dwelling on the past.

In this connection, it is gratifying to learn that in 1972 it achieved a moderate surplus in its visible balance of trade.

This achievement, and it is a great achievement, has been brought about only through the remarkable exercise of national self-restraint and national cooperation.

The details of this achievement are set forth in a relatively brief information release issued by the Embassy of Ghana for the occasion.

I ask unanimous consent that the entire release be included in the RECORD at this point.

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

GHANA IS 16 YEARS OLD: THE ACHIEVEMENTS OF THE NATIONAL REDEMPTION COUNCIL

Ghana, which is 16 years old today, has already experienced many vicissitudes. More than one eyar ago, Ghana had one of the worst balance of payments crises known to the developing world. We were up to our necks in inflation. Food was scarce and the prices were very prohibitive. Today, Ghana is on the way to achieving her first balance of payment surplus in many years. The country's visible balance of trade during 1972 showed a moderate surplus as against a deficit in 1971. We have succeeded at the same time in controlling inflation and our food production has shown a remarkable increase. We have done this from our own resources, without borrowing and adding to our external debt burden.

Our policy of self-reliance has paid off very well for not only have we been able to grow enough food for our people but we are also working hard to produce raw materials for our industries. From the results of "Operation Feed Yourself", we are moving forward to involve all the people in development through a new co-operative programme which will lead to the creation of co-operative societies. We are moving the principle of self-reliance to a new plane where the people will not only feed themselves but will work to change their entire living conditions.

We have launched a campaign to provide houses for the people and we are adapting our educational system to suit our development needs.

The students of our three universities without prompting, voluntarily decided on their own to assist in the harvesting of sugar cane and to plough the land to mark a new turning point in our history inspiring a nationwide determination to conquer the land and feed ourselves from its resources.

We recognise that the type of education imposed by colonialism has been detrimental to our interests. We have been brought up to hold white collar jobs in reverence and to look on manual labour with scorn. The result is that with our fertile land, abundant water and our proverbial sunshine, Ghana has been one of the greatest importers of food.

We are taking steps to correct this situation. The curricula of our educational systems, from primary to university, are being revised to reflect the needs of our society. The Government is taking steps to involve the institutions of higher learning in the practical problems of development.

The Agricultural Faculties of the University of Science and Technology and the University of Ghana have been asked to join the State Farms Corporation and the Agricultural Development Bank in a consortium to plan and implement a programme of oil palm development designed to make Ghana self-sufficient in oil palm production!

A similar consortium is to be promoted again by the two faculties, the Agricultural Development Bank and the Cattle Development Board to plan and execute a project to make Ghana self-sufficient in the production of cattle and meat preparations.

The Physical Planning and Architectural Departments of the University of Science and Technology have been requested to undertake project studies for the replanning and modernisation of our cities and the planning of new townships which will replace some of our villages.

Priority is being given to the training of Ghanaians for the high technical grades of the mining industry and for all the key sectors of our economy. This is to prevent the domination of our economy by powerful foreign interests.

In our world today, it is impossible for any single country to do it alone. The people and nations of the world must depend upon one another but this process of inter-dependence must be based on the new concept of partnership expressed in the form of joint ventures. Instead of seeking total ownership of major economic enterprises, we are asking foreign businessmen to think of joint ventures with our people so that the profits they earn may be jointly shared, partly for the development of the land and partly to reward the foreign entrepreneurs.

It is on the basis of this that the National Redemption Council has taken steps to acquire majority shareholding in our main extractive industries. Ghana already has such fruitful partnerships with a number of United States businesses.

This is a Government which in just over one year has shown practical understanding of our problems to evolve realistic plans to resuscitate our economy.

The National Redemption Council has recently been described by West Africa, a magazine published in Britain, as purposeful, energetic, honest, and worthy of every help from abroad. The magazine, in addition, has admitted that its earlier misgivings about the Council were wrong.

The people of Ghana through a determined effort of self-reliance and loyalty are making their country a much happier place to live in. We shall overcome.

Mr. AIKEN. Mr. President, we should highlight Ghana's policy of self-reliance in the field of agriculture, both because of the excellent results of what has been named "operation feed yourself," and because agricultural self-sufficiency surely must be generally regarded as the key to development efforts in almost all of Africa.

I am particularly impressed that the students of the country's three universities have volunteered to work on the land.

It is gratifying that these institutions of higher learning are developing programs which focus on this most essential field of agriculture.

I cannot let this occasion pass without congratulating the country of Ghana on its anniversary and without noting that it has given priority to the field of agriculture which it and its friends abroad regard as the key to a successful future.

POLL ON PRESIDENT'S ACTIONS TO HOLD DOWN GOVERNMENT SPENDING

Mr. SCOTT of Pennsylvania. Mr. President, an independent national tele-

phone poll was recently conducted in which a majority of those polled supported the President's actions to hold down Government spending where to do otherwise would necessitate a tax increase. I ask unanimous consent that a summary of the poll results be printed in the RECORD.

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

NATIONAL TELEPHONE POLL: 1,200 RESPONDENTS

1. The President said that he will veto bills for government spending programs that would result in tax increases. Should Congress override these vetoes or sustain them?

Polling dates, Jan. 12–14, 1973:

Override	31
Sustain	44
No opinion	25

2. The President said he will withhold spending of funds Congress has authorized if they would result in tax increases. Do you favor his withholding funds or do you favor his spending the money as Congress directs?

Polling dates, Jan. 12–14, 1973:

Favor withholding	47
Favor spending	28
No opinion	25

3. In general, do you favor more government programs or do you favor keeping taxes down?

Polling dates, Jan. 12–14, 1973:

Favor programs	13
Favor keeping taxes down	74
No opinion	12

CUTBACKS IN FEDERAL PROGRAMS

Mr. BIDEN. Mr. President, cutbacks in Federal programs, as proposed by the the present administration, could cause serious problems at the State and local levels.

The Delaware State News recently explored the potential effects on Delaware of the administration's proposed cutbacks.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD.

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

FEDERAL CUTS POSE BIG PROBLEMS HERE

DOVER.—Model Cities and housing programs in New Castle County, anti-poverty agencies in Wilmington and Sussex County, agricultural subsidies and the Public Employment Programs in all three Delaware counties look to be the big losers as a result of President Nixon's proposed federal budget cuts.

The cutbacks in federal monies will also hit the Capital and Caesar Rodney school districts, fledgling sewer projects in eastern Sussex County, proposed construction of community mental health centers throughout the state, daycare services in Wilmington, farm conservation efforts everywhere and a $3 million rehabilitation project in Laurel.

Still reeling, meanwhile, is the state's Division of Vocational Rehabilitation. Although not specifically hit by the latest series of budget cuts, the state V-R program was crippled by Title IV–A cutbacks and a cut in funds under the federal Vocational Rehabilitation Act.

The futures of dozens of other programs that depend on federal funds to keep them going are in doubt, as administrators and government officials wait for definite word from Washington or watch for the possibility of Congressional action that might rescue them. (See accompanying story.)

If the President's proposals remain intact, however, a number of Delaware programs are in definite trouble.

MODEL CITIES

Word on the Model Cities program in Wilmington came last week. The government is giving the $1.7 million program only $330,000 to operate next year, as the administration continues its plan to merge Model Cities, along with urban renewal and neighborhood development programs, into block-grant revenue-sharing.

The Delaware Model Cities program, which was hit earlier by Title IV–A cutbacks, was in turn forced to withdraw commitments to drug clinics, housing programs and other projects.

ACTION AGENCIES

Also facing their demise are Community Action of Greater Wilmington, Inc. and the Sussex County Community Action Agency. The two anti-poverty programs, which operate under the wing of the doomed Office of Economic Opportunity (OEO), will probably be phased out by June 30 unless Congress comes to the rescue.

OEO officials estimate that about 165 workers in the $700,000 state program will lose their jobs.

AGRICULTURE

Agriculture subsidies in Delaware will also drop under the general presidential plan to cut about $1 billion from the stabilization monies paid to farmers not to grow wheat and corn. In Delaware the estimated $1.2 million in subsidy payments in 1972 could be cut to half that amount, although more farmers may sign up and bring the total amount back up.

To the average farmer receiving subsidy payments, the cut will translate to a drop from about $730 to $350, according to one official on the state's Agricultural Stabilization and Conservation committee.

PEP PROGRAM

The Public Employment Program, which provides paychecks for over 100 government workers in all three Delaware counties, is another one of the casualties. But administrators of the program say they are hopeful many of the displaced employes will be absorbed permanently into county and state jobs when the federal funding is completely cut off.

LAUREL PROJECT

The West Laurel rehabilitation project was to be undertaken under the Department of Housing and Urban Development's neighborhood development program. The first $500,000 installment of the $3 million project had been expected by town officials this month, but they got word instead the funds would not be granted.

MENTAL HEALTH

Community mental health centers in the state are also being hard hit. Title IV-A cuts curtailed the program somewhat last fall, and the Nixon budget proposals cut deeply into planned outpatient services and facilities for consultations and emergencies.

Although it's not completely clear yet, the centers planned by the state may have also been hurt by the phasing out of the Hill-Burton hospital construction act. $1.2 million in grant funds for the program in Delaware were jeopardized by the Nixon proposals.

HOUSING

The Housing situation, especially those in New Castle County, has been complicated by the federal moratorium on subsidized housing starts. Progress on five projects in the state has been halted for at least six months, and others are in danger if the moratorium continues after that.

In 1973, the impact of the HUD moratorium is estimated to involve 1,300 units of low- and moderate-income housing and a loss of some $26 million worth of construction. A temporary hold on water and sewer grant approvals has also held up housing production.

IMPACT FUNDS

Probably the most dramatic impact of the budget in the Dover area is the proposed elimination of PL 874 funds, or federal aid to "impact areas," where children of federal employes or military personnel attend schools in a district.

The two districts most affected by the proposed cut are Caesar Rodney and Capital, both of which serve students whose parents are in service at Dover Air Force Base. The two district superintendents estimated a loss of about $250,000 in federal aid.

Caesar Rodney Supt. F. Niel Postlethwait said his district could stand to lose about $140,000, or 24 per cent of the entire operating budget. Caesar Rodney serves over 800 children of uniformed military personnel.

Capital has approximately 730 military dependents and could lose between $100,000 and $125,000 in aid.

The purpose of PL 874 money is to counteract the effects of large federal institutions on local communities.

According to Postlethwait, the impact funds may not be cut entirely, but he expects at least some drastic reductions.

SEWER SYSTEMS

The proposed cutbacks could have its severest effect on the state's water pollution abatement program, particularly if Delaware is not allowed to follow its so-called phased funding construction system.

Delaware's sewer construction money was cut from $32 million to $13 million for fiscal 1973, although it appears the '74 funds will be about $16 million. The money came under the Clean Water Act of 1972.

If the state is allowed to fund sewer projects in phases, it can have its major sewage treatment plants (in Sussex and New Castle Counties) completed in time for the federal 1977 clean streams deadline.

But, said one official, if Delaware has to go on a priority system—as the federal Environmental Protection Agency is proposing—New Castle will get the priority because of population and more urgent need over Sussex's proposed system.

REAP

Also to be greatly affected—since the program was completely terminated last Christmas by President Nixon—is the Rural Environmental Assistance Program, (REAP) which in its original form was started during the Depression in the 1930's by Roosevelt administration.

The killing of the REAP program, though it only meant about $200,000 in federal money, will, nevertheless, greatly affect farm conservation efforts. These efforts included the planting of trees on clear-cut farm land, soil erosion conservation, man-made waterfowl ponds. Because of the wildlife aspects the REAP program is under the state Division of Fish and Wildlife.

Land and water conservation funds could take a considerable dive, from $1.7 million to only $476,000. Such severe cuts would greatly affect the state's acquisition of park areas and forests.

U. OF D.

Department of Agriculture cuts will affect the University of Delaware's Agricultural Experiment Station in Newark. Dr. William E. McDaniel, dean of the university's College of Agricultural Sciences, says the proposed 20 per cent cut in the station's federal grant money could "cut the program back considerably." He estimates the station will lose about $106,000 in federal funds.

SCHOOL FUNDS

The federal budget proposes many cuts in the Elementary and Secondary Education

Act of 1965, including some programs that would be entirely eliminated.

One of these is Title V of the act, which supplies aid to state departments of education. In the case of the Delaware Department of Public Instruction, almost one-half of the staff has all or part of their salaries paid for out of federal funds.

Aid to libraries would also be eliminated, in addition to funds for certain innovative programs.

Last year Delaware received $299,471 in Title V money.

REMARKABLE ACHIEVEMENTS IN FOREIGN RELATIONS MADE BY NIXON ADMINISTRATION

Mr. FANNIN. Mr. President, the Nixon administration has made remarkable achievements in foreign relations during the past 4 years.

The Vietnam war has been halted and our imprisoned servicemen are returning home.

A new era of negotiation with the Soviet Union and Red China has begun.

The United States has managed to keep other hotspots from flaring into warfare.

President Nixon has made these achievements despite the constant irrational sniping by radicals and dissident groups within the United States. These critics have been strangely silent during recent weeks as it has become apparent to the overwhelming majority of Americans that the President is delivering on his commitment to a generation of peace.

An excellent article discussing the President's achievements, and pointing out the consequences of what could have happened had the Nixon critics prevailed, was carried in the February 18, 1973, Los Angeles Times. This article was written by the Reverend Dr. John McLaughlin, who is a deputy special assistant and speech writer to President Nixon.

Mr. President, I believe President Nixon deserves our support and our admiration for the record of his administration. I request unanimous consent that this article be printed in the RECORD at this time so that my colleagues will have the opportunity to read it:

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

A NIXON SPEECH WRITER LOOKS FORWARD TO AN "ERA OF NOBLE ACCOMPLISHMENT"

(By John McLaughlin)

A retrospective view of the war suggests that one of its unfortunate by-products was the spawning of a new elite that regarded itself as a kind of corporate Rosetta stone, empowered to pronounce on the morality of a given action as though by some special charisma.

One began to feel that in many instances the critics had veneered their preconceived political opinions with designations like "Christian" and "un-Christian" or "moral" and "immoral."

The greatest threat posed by the critics went beyond the Vietnam war. Potentially, the Nixon Doctrine, affecting the whole new foreign policy thrust of this nation, might have been torpedoed.

If the containment of North Vietnam had been successfully undermined, it is doubtful that the Nixon Doctrine would now be operational. This would mean that the extraordinary relaxation of tensions within the international community would never have taken life.

Look at these striking movements: Senior officials of North Korea and South Korea have met for the first time in 27 years to examine problems of unification.

The Indians and the Pakistanis, in the aftermath of their third war in a single generation, have entered into an agreement which provides for the withdrawal of military forces.

More astonishingly, Japan has met with its long-time adversary, China, replicating President Nixon's earlier contact. Thailand, another long-time rival of China, has also moved towards accommodation.

In the Middle East, a cease-fire engineered by the United States 30 months ago still remains in force despite the abhorrent Munich killings. Although prospects of early settlements are somewhat clouded, neither side has closed the door to diplomatic attempts.

East Germany and West Germany have signed a treaty that permitted over half a million West Germans last Christmas to visit their relatives on the other side of the Berlin Wall for the first time in seven years. West Germany and France have moved closer towards a common policy on European relations with the United States.

Greece, Turkey and Cyprus have begun to resolve their disputes. And it has recently been reported that signs exist that the border claims dispute between Russia and China may be somewhat easing.

"An irresistible trend," is the way Chinese Premier Chou En-lai describes the burgeoning international attitude. Peoples now seem determined, he observed, to "settle their mutual disputes reasonably."

Richard Nixon can take a lion's share of credit for this new diplomatic climate whose implications and ultimate effect on morality are ranging, profound and wholesome.

Not only does there exist almost a universal deemphasis on the use of force in the settling of disputes among nations, but international commerce, communication, transfer of ideas and personnel are being greatly augmented. This betterment redounds not only to improve economies and standards of living but to improve social conditions and humane values with their consequent impact on morality and the spirit.

President Nixon has often spoken about peace with honor. This means peace with responsibility, peace with justice, peace with morality. The morality that invests the settlement can be best understood, perhaps, if one reflects on the intolerable set of moral consequences that would have been unleashed had the President not persevered but chosen to exit abruptly from Vietnam.

Hostilities would have continued to rage, and South Vietnam almost certainly would have collapsed. The hope of political self-determination for South Vietnam, for which the blood and wealth of America has been so unstintingly expended, would have been crushed.

American POWs would probably have been held as ransom by Hanoi for fiscal "indemnifications," there being no pressure on the North Vietnamese for their release. The confidence of the free world nations would have been shaken by the severance of our involvement at the eleventh hour.

Laos would have gone under and Cambodia absorbed by a single Vietnam of 30 million riding the crest of exhilarated morale, having vanquished the most powerful nation on earth.

Estimates of the size of the ensuing Southeast Asian program vary from 500,000 to 1 million-plus persons.

Other political developments, fraught with odius moral consequences, would have involved other parts of Southeast Asia. A Communist insurgency in northeastern Thailand would have taken on fresh life from Communist successes in adjacent nations, and Thailand would probably have fallen. Likewise, Malaysian Communist guerrillas would have been reinforced and, at a minimum, Indonesia would have aligned itself with Peking.

In Latin America, anti-U.S. leftists might well have rallied, turning to Peking. A widespread resurgence of Chinese influence would have forced Russia, in turn, into a competitive response, endorsing and even instigating Communist expansionist penetrations.

One contingency seems beyond dispute: Had we cut-and-run in Vietnam, Richard Nixon would not have been able to transform the spirit of the international community into one of accommodation and compromise.

Rather, the United States would be trying to put out brush-fires of insurgency around the world or standing aside like a helpless giant as belligerence gathered. Containment of North Vietnam was the prerequisite for the Nixon Doctrine with its dynamic of negotiation, concession and compromise.

To have washed his hands of the most unpopular war this country has ever waged—an ugly legacy which had been passed on to him—would have been politically seductive to any U.S. President. It would also have been morally intolerable.

The President chose to face the lonely vigils, the wracking decisions, the roller-coaster emotional ups and downs, the outright anguish that inevitably attend the exercise of such immense responsibility. His prudence, his equilibrium, his conviction, his staying power was tested on a wheel of fire. And he held.

Meanwhile, the President's critics—with some self-important clergymen among them—were delivering themselves of shrill moral assertions. The Cambodian incursion was immoral. The bombing of the north was immoral.

The reality? The Cambodian incursion shortened the war. The mining and air strikes in the north ruptured the lifeline of the 12-division, panzerlike invasion of the south. The rainy season came and went with no flooding. Not a single dike had been breached by an American bomb. In December, the resumed bombing moved the stalemated Paris discussions off dead-center.

The moral justification for what the United States has done in this war from the beginning and throughout rests on the continued application of the principle of legitimate self-defense (of South Vietnam) by proportionate means. Not only is this principle recognized by moral theology but by international law.

The assistance we have offered to South Vietnam in its exercise of self-defense is analogous to that of a person who helps a victim resist criminal assault. In moral terms, the act is rendered the more honorable by reason of the nature of the good being protected. In this instance, it is the highest possible human good, even higher than life itself—human freedom and human justice.

Richard Nixon has terminated a war, gained a robust popular mandate, and lowered America's profile abroad, releasing that sense of responsibility within nations by which they will assume an appropriate share of the burden for their own well-being.

Now, if his critics will curb their hand-wringing and doom-saying and envy-tantrums—and give the peace a chance to work its healing—the President will be able to usher in a new era of benevolence, prosperity, civility and calm. It will be not only an era of good feeling, but an Era of Noble Accomplishment, at home and abroad—for the President and for all Americans.

SENATOR MUSKIE AGAINST SOVIET BLACKMAIL

Mr. RIBICOFF. Mr. President, a conference on United States-Soviet trade was recently held here in Washington. As one with a particular interest in this subject, I followed it with some interest.

Two statements in particular made at this conference are deserving of special mention—one for its positive content, the other, unfortunately, for its outrageous nature.

According to a news report in the Washington Post of February 28, Mr. Arbatov, identified in the article as a "leading Soviet official," said that congressional denial of most-favored-nation treatment to the Soviet Union would create a major obstacle to detente, which in turn would, "spur up anti-Semitic feelings in the United States."

I am outraged by this crude, heavy-handed threat delivered by a Russian official at a gathering of 800 American businessmen. Mr. Arbatov, who is head of the Soviet Institute for U.S. Studies, certainly has a great deal to learn about Americans and the U.S. Congress. Americans are not easily blackmailed—particularly at a time when Russia needs trade concessions and American technology because of serious Soviet economic failures. Instead, Mr. Arbatov should have listened carefully to the reasoned, eloquent statement of my colleague, Senator MUSKIE, who addressed the same meeting earlier that day.

Senator MUSKIE, one of the most thoughtful men in this body, described the current situation very accurately when he said that the Soviet leaders would be profoundly mistaken if they underestimated Americans feelings on the exit visa question. Senator MUSKIE stated that Americans properly perceive the exorbitant taxes on Jewish emigrants as being in violation of fundamental human rights and freedoms. He warned that should the Soviet Union continue to exact ransoms on those educated persons seeking to leave, most favored nation status is "seriously jeopardized."

I concur in his judgment; more than three-fourths of the Senate, and almost two-thirds of the House have already gone on record on this issue. These include Republicans and Democrats, conservatives and liberals, elected representatives from every region of the United States.

It is not the Congress of the United States, nor as Mr. Arbatov claimed, American Jews, who should be blamed for standing in the way of normalized relations between the two countries—but Mr. Arbatov himself, because of his attempt at intimidation and the discriminatory policies of his own government.

It remains to be seen whose view the participants of the United States-Soviet Trade Conference will follow—Mr. Arbatov's threats of anti-Semitism or Senator MUSKIE's sound analysis of the problem.

I have faith that Mr. Arbatov's twisted views will be repudiated by these businessmen, by all Americans, and ultimately by the Soviet Government itself, whose stake in improved trade relations with our country should convince it of the futility of its present course.

I ask unanimous consent that the text of Senator MUSKIE's remarks before the United States-Soviet Trade Conference be printed in the RECORD at this point along with the article in the Washington Post mentioned earlier.

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

REMARKS OF SENATOR EDMUND S. MUSKIE, UNITED STATES-SOVIET TRADE CONFERENCE

I want to thank the National Association of Manufacturers for asking me to participate in this historic conference. Ever since the late 1960's when I was Chairman of the Senate Subcommittee on International Finance, I have been particularly interested in the whole question of East-West trade. And I warmly welcome this opportunity to discuss the current state of American trading relations with the Soviet Union.

Happily, today's discussion—as well as this entire conference—takes place in an atmosphere different from that which existed during much of the postwar period. At times during that period, municipal ordinances have forbidden the sale of Soviet products, and dock workers have refused to handle goods bound for or coming from communist nations. I remember all too well the difficulties which President Kennedy encountered in trying to complete a wheat deal with the Soviet Union. I also recall the resistance within the U.S. Congress during the 1960's with respect to proposals to grant most-favored nation treatment to Eastern European countries.

Today there is strong support for expanded commercial relations with the Soviet Union. Trade between the two nations nearly tripled last year. The relaxation of old export controls and the creation of new credit arrangements have helped enormously to erode the artificial economic barriers that have long stood between us. And since last May's Summit meeting in Moscow, we have seen specific new bilateral accords on trade, grain, lend lease and maritime matters—the nuts and bolts of what we must hope are only first steps toward the substantial expansion of economic relations between two great countries.

On this planet, where a stubborn pursuit of self-sufficency can only mean a future of stagnation, we must advance all the policies that bring two giant neighbors onto common ground. But we must be realistic about those obstacles that still exist between the goal of improved Soviet-American commercial relations and its realization.

And while I want to accentuate the positive aspects of this exchange, I must balance those considerations against two problems which are of concern to me and which would seriously damage Soviet-American trade. One problem—the treatment of Jews seeking to leave Russia—is already high on the Congressional agenda. The other issue—disruption of American transport facilities—is assuming new and potentially serious dimensions.

The first of these issues arises from the current Soviet policy of charging prohibitive fees to would-be emigrants. The Universal Declaration of Human Rights adopted by the United Nations over 24 years ago says specifically, in Article 13, Point 2: "Everyone has a right to leave any country, including his own, and to return to his country." That declaration is further confirmed in the international convention on the elimination of all forms of racial discrimination, ratified by the Supreme Soviet on January 22, 1969. Further, Article 129 of the "Principles of Civil Legislation of the U.S.S.R. and Union Republics" establishes that international agreements to which Russia is a party override any conflicting domestic legislation.

For more than two million Soviet Jews, however, those provisions of international and domestic law are dead letters. Despite substantial recent increases in the number of Jews allowed to emigrate, the Soviet Government is, in fact, barring the free departure of many professional, skilled Jews who seek to build new lives for themselves in Israel. To the extent that such a policy is continued, another high Moscow priority—most-favored Nation status for trade with America—is seriously jeopardized.

Soviet leaders would be profoundly mistaken if they under-estimated American feelings on the exit visa question. The concern is not limited to the American Jewish community. It is shared widely throughout our country, and its impact on Congress is heavy. Americans properly perceive the exorbitant taxes on Jewish emigrants from the Soviet Union as being in violation of fundamental human rights and freedoms.

That perception of the tax is the direct source of today's widespread objections to liberalizing trade arrangements with the Soviet Union. Until the head tax is eliminated, the objections will persist, and the Congress will respond to them.

In November of last year, the Joint Economic Committee of the U.S. Congress made a study trip to the Soviet Union. The avowed purpose of the trip was to discuss with Soviet leaders the problems and prospects of expanded East-West trade. In Moscow, members of the study group met with Premier Kosygin and Minister Patolichev. In its official report on the trip, which was issued barely two weeks ago, the Committee noted that Soviet leadership did not seem to sense the concern of the U.S. Congress on the matter of Soviet exit fees. If this is true, it is regrettable.

Earlier this month, Representative Wilbur Mills, Chairman of the Ways and Means Committee, and Representative Charles Vanik, a Member of that Committee, jointly introduced legislation, "The Freedom of Emigration Act of 1973." The bill is designed "to restrain trading privileges or 'Most-Favored Nation treatment' with any nation until that country ceases its discriminatory emigration policies." And in introducing this legislation, the Congressmen explicitly referred to current Soviet exit visa policy. The Mills-Vanik Bill now has over 260 co-sponsors and the list is growing longer daily.

In the Senate, eighteen of my colleagues are currently circulating a letter asking support for legislation with intent identical to the House's Mills-Vanik Bill. As many of you know, when similar legislation was introduced last year, it received my support and the bipartisan backing of 75 other Senators, or more than ¾ of the Membership.

Thus, the issue of Soviet exit visa policy is a matter of major concern to Congress and to the American people. And it would truly be a shame if Soviet persistence in this policy acted as a roadblock in the way of broadened commercial relations between the Soviet Union and the United States.

A second, quite different problem related to expanded Soviet-American trade is the potential disruption which such trade may cause for our domestic marketing capabilities. I am particularly concerned at present about the impact of the recent grain agreement on domestic shipping. Poultry and dairy farmers in my own region of New England are currently experiencing economically disastrous delays in receiving grains for their own use, as a result of a nationwide freight car shortage. The shortage, although not wholly or even largely due to the Russian grain shipments, is in part a consequence of such shipments.

I cite this disruption of normal domestic marketing patterns, not as any unusual con-

sequence of foreign trade, but because of its potential political implications. In recent months, I have received countless letters and several visits from persons and companies who have urged me to do all I can to prevent further export ventures with the Soviet Union.

The Equal Export Opportunity Act of 1972 explicitly authorizes export controls to the extent necessary to protect the U.S. economy from an excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand. But there is no effective authority being exercised at this time to cushion the impact of abnormal foreign demand on our domestic market capabilities.

This is clearly a problem. And unless the American government better anticipates such potential dislocations in the future and prevents their occurrence, this problem, too, could become a formidable barrier to improved commercial relations between the Soviet Union and the United States.

I raise these two issues not to dampen enthusiasm for expanded Soviet-American trade. Indeed, I welcome such expansion. I have supported legislation to broaden East-West trade in the past and hope to support similar legislation in the future. However, I think we all gain by being aware of certain current problems surrounding Soviet-American economic relations. For only with awareness and understanding can the problems be overcome.

[From the Washington Post, Feb. 28, 1973]

ADMINISTRATION PUSHES SOVIET TRADING BREAK

(By Marilyn Berger)

Administration officials yesterday seized on a U.S.-Soviet trade conference to mobilize American business support for favorable tariff treatment for the Soviet Union.

The proposal, which President Nixon is pledged to make under the terms of the Soviet-American trade agreement, has run into heavy criticism on Capitol Hill. Bills have been introduced in both houses to withhold most-favored-nation tariff treatment from the Soviet Union until Moscow lifts the recently imposed exit fees that limit emigration of Soviet Jews.

A leading Soviet official, meanwhile, warned that a denial of "most-favored-nation" (MFN) treatment would create a major obstacle to detente which would in turn "spur up anti-Semitic feeling in the United States." The Jews, warned G. A. Arbatov, head of the Soviet Institute for U.S. Studies, would be blamed for standing in the way of normalized relations between two countries.

Arbatov also warned that Moscow would look elsewhere for trading partners if MFN treatment were not forthcoming. U.S. officials note that such treatment—which would allow Soviet goods to enter the United States at whatever the lowest tariff rates are for similar imports from other nations—would not have a significant financial effect, but Moscow demands it for its symbolic value.

Granting of MFN treatment is linked to payments of the Soviets' lend-lease debt. Unless equal tariff treatment is forthcoming, the Russians would be absolved from lend-lease payments under the arrangements negotiated.

William Casey, under secretary of state for economic affairs, told the 800 businessmen attending the conference at the Shoreham Hotel: "We hope no unusual delays will threaten the implementation of this (Soviet-American trade) agreement" implicitly urging them to lobby their congressmen to oppose any bill that would deny MFN treatment to the Soviet Union. He said the agreement would provide "modest but welcome benefits for the balance of payments," that it would be job-creating" and that it would set commercial relations on a fresh and positive course."

Casey said that failure to implement the MFN provisions of the trade bill "would be seriously detrimental to the whole design."

Presidential aide Peter M. Flanigan raised the spectre of foreign competition for Soviet purchases. During his luncheon address he told the businessmen: "We need your help and the help of Congress and the public at large if we're going to score as well as our competitors." Noting the opposition to MFN because of the exit fees, he said: "We feel strongly that a solution to this problem . . . can best be found through diplomacy."

Casey and Flanigan were stating the administration position that is being urged directly upon congressmen. The trade bill has not yet been sent up to the Hill, but U.S. officials indicate that MFN treatment for the Soviet Union will be included in the overall legislation in which the President is seeking authority to negotiate tariffs with all countries.

Arbatov suggested that the exit fees were being used as a "pretext" to prevent passage of MFN by those who oppose detente generally. He added that if Jews were to be exempted from paying the fees there would be a revival of the anti-Semitism in the Soviet Union that had existed in Czarist days. He added that Soviet citizens might not approve of the treatment of Negroes in the United States, but that Moscow refrained from saying anything about it.

HIGHLIGHTS OF ACTIVITIES OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. GOLDWATER. Mr. President, 1972 was by far the most successful and outstanding year enjoyed by the United States in its activities in space and aeronautics.

So that my colleagues and others who read the RECORD might know just what we did during that year, I ask unanimous consent that the "Highlights of 1972 Activities" of NASA be inserted at this point in the RECORD.

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION HIGHLIGHTS OF 1972 ACTIVITIES

Manned spaceflight

Early in January, President Nixon recommended, and the Congress approved, proceeding with the development of the Space Shuttle—a reusable manned space vehicle which will be used for a wide variety of space missions in earth orbit. The Space Shuttle will be launched as a rocket and landed as an airplane.

The Shuttle will operate from Kennedy Space Center in Florida and Vandenberg Air Force Base in California. North American Rockwell Corporation's Space Division, Downey, California, was selected as the prime contractor.

With the return to earth of Apollo 17 on December 19, the United States completed the last, longest, and most successful of seven lunar landings.

Apollo 17 records included:

Longest manned lunar landing flight; 301 hours, 51 minutes.

Largest lunar sample return: An estimated 115 kilograms (249 pounds).

Longest total extravehicular activity time: 23 hours, 12 minutes.

Longest time in lunar orbit; 147 hours, 48 minutes.

Apollo 17 was launched at 12:33 a.m. December 7. It was manned by Eugene A. Cernan, Commander; Ronald E. Evans, Command Module Pilot; and, Harrison H. Schmitt, Lunar Module Pilot.

The fifth manned lunar landing, Apollo 16, took place April 19. After liftoff from Cape Kennedy April 16, John Young, Commander, and Charles Duke, Lunar Module Pilot, spent nearly three days exploring the Descartes highlands region of the moon while Ken Mattingly, Command Module Pilot, orbited the moon operating a complex array of scientific instruments and two lunar mapping cameras. Appollo 16 splashed down in the Pacific Ocean April 27.

During his visit to Russia in May, President Nixon signed an agreement with Chairman Kosygin of the USSR to conduct an earth orbital rendezvous and docking of a U.S. spacecraft with a Russian spacecraft. In July 1975, a U.S. Apollo spacecraft will link up with a Soviet Soyuz spacecraft and while docked together, astronauts and cosmonauts will visit both spacecraft and perform a number of scientific tasks. A major purpose of the Apollo Soyuz Test Project (ASTP) is to develop a rescue capability by demonstrating systems that will permit the docking in orbit of any future manned spacecraft of either nation.

For Skylab, the nation's first space station, 1972 was the year when it all began coming together. The three flight crews and two backup crews were named in January and promptly began an intensive year of training.

The hardware elements—spacecraft components and equipment for conducting scientific, technical and biomedical investigations—were built and tested in many parts of the country and then shipped to Florida for final assembly and testing.

Back-to-back 1973 launches, planned for May 14 and 15, will get Skylab started on an eight-month operational period during which the spacecraft cluster will be visited three times for periods of up to 56 days by three-man crews who will conduct a wide range of experiments in earth resources, solar astronomy, medical and other fields.

The manned orbital research facility will have features that cannot be found on earth: zero-gravity; a broad view of the earth's surface features; a capability for examining the sun and stars from outside the earth's dense and hampering atmosphere.

Space science

Mariner 9 was put into orbit around Mars late in 1971. The windmill-shaped, solar-powered spacecraft circled the planet 698 times in 349 days and before being shut down on October 27, completely mapped the bleak Martian surface.

As the spacecraft's TV cameras watched the seasons change below, its scientific instruments returned a wealth of data that has revised all previous concepts of Mars.

Among Mariner 9's major observations were:

A geologically active planet with volcanic mountains larger than any on earth;

An equatorial crevasse three to four times deeper than the Grand Canyon;

Indications that free-flowing water may have once existed on Mars;

The evolution of an monumental dust storm that raged to an altitude of 50 to 60 kilometers (30 to 35 miles), cooling the surface and warming the atmosphere—a measurement of great value to scientists who have long been trying to calculate the effect of increasing pollution on earth's global climate.

Mariner 9's findings laid the groundwork for America's next venture to Mars, the Viking expedition in 1975–76 which will search for evidence of life on the planet.

Meantime, a new era in space exploration opened March 2 with the launch of Pioneer 10 toward Jupiter on man's first probe of the giant outer planets.

Pioneer 10 is the first spacecraft to fly beyond the orbit of Mars, the first to penetrate the Asteroid Belt, the first intended to look closeup at Jupiter. a thousand times as big as earth, and the first destined to escape the solar system.

As the year ended, Pioneer 10 had passed safely three-fourths of the way through

the Asteroid Belt but still had a quarter of a billion miles to fly before training its camera on Jupiter's colorful bands and roving Great Red Spot in December of 1973. From that distance its radio signal will take 45 minutes to reach earth.

The heaviest and most complex of U.S. space observatory, named for the Polish astronomer Copernicus, was launched on August 21 and began studying ultraviolet and X-ray sources in the heavens with a clarity never before possible. So precise is the pointing accuracy that Copernicus could hold its telescope, the largest ever placed in space, on an object smaller than a basketball if seen at a distance of 650 kilometers (400 miles).

Two other U.S. scientific satellites were launched during 1972: Explorer 47, designed to study earth-sun interactions from an orbit reaching half way to the moon; and Explorer 48, which surveyed the sky for gamma ray sources. Explorer 48, launched for NASA by an Italian crew from a platform in the Indian Ocean, was the 26th success in a row for the NASA Scout rocket, a new record for the U.S. space program. In addition, NASA launched four scientific satellites for, or in cooperation with, European organizations.

Two dozen scientific spacecraft orbited in earlier years continued to return miles of tape-recorded data on the solar system and the universe beyond. Ten of them, plus far-off Pioneer 10, teamed up to observe great solar storms in August, giving early warning of the disruption and detecting the first evidence of nuclear reactions on the surface of the sun.

Applications

On July 23 a major step was taken toward the establishment of a comprehensive information base about the earth's resources and its surface environment with the launch of the first Earth Resources Technology Satellite (ERTS–1).

The 891-kilogram (1,965-pound) satellite was placed into a 920-kilometer (570-mile) orbit by a Delta launch vehicle from the Western Test Range (WTR), California, and began returning excellent pictures of the earth's surface July 25.

The main purpose of this first mission is to demonstrate the usefulness of remote sensing of conditions on the earth's surface and environment on a global scale and on a repetitive basis. It is expected that data from ERTS–1 will contribute importantly to the fields of agriculture, forestry, geology, geography (land use management), hydrology, pollution control, oceanography, meteorology and ecology.

Two weather satellites were launched on Delta rockets from WTR: National Oceanic and Atmospheric Administration-2 (NOAA–2) and NASA's Nimbus-5.

NOAA–2 is an operational meteorological satellite launched by NASA October 15 for the NOAA as part of that Agency's operational weather satellite system. Nimbus, launched December 11, is a research and development satellite carrying three new experiments along with three improved experiments similar to those carried in earlier satellites. One experiment involves, for the first time, taking vertical temperature measurements through the clouds down to the surface of the earth.

Two commercial communications satellites in the INTELSAT IV series were launched January 22 and June 13 for the Communications Satellite Corporation aboard NASA's Atlas Centaur launch vehicle to become part of the global communications satellite network.

In addition, a small communications relay satellite, Oscar-6, was carried into orbit aboard the NOAA-2 launch vehicle for the Radio Amateur Satellite Corporation. It is being used by ham radio operators around the world. And the first in a new series of Canadian domestic communications satellites, TELESAT–A of "Anik" (Eskimo for brother), was launched by NASA on a Delta rocket. Both the Intelsats and the Canadian satellite were launched from Kennedy Space Center, Florida.

Aeronautical research and technology

Major thrusts of NASA's areonautical research and technology efforts were keyed to jet engine noise abatement and the reduction of airway and airport congestion.

Significant progress has been achieved in programs to develop technology for a quiet jet engine, to develop designs for quieting U.S. commercial jetliners flying the nation's airways today, and to develop quieter aircraft takeoff and landing procedures.

Programs for control of jet engine exhaust emissions have demonstrated techniques for achieving significant reductions in pollutants.

Additional progress was achieved in composite materials research avionics, aerodynamics (including the supercritical and antisymetrical wings), electronic flight control systems, general aviation safety, supersonic and hypersonic research, and in basic research in materials and structures.

Technology utilization

NASA continued to distribute information about benefits from aerospace technology to both the private and public sectors of the national economy at an ever-increasing rate during 1972.

Noteworthy during the year was accelerated use in such fields as medicine, nondestructive testing, and engineering design. Many other fields and disciplines used NASA services in creating new commercial products, and improving others.

A compact, fully automatic gas analyzer now on the commercial market offers prompt information on respiratory and metabolic functions. It can be used in hospital intensive care units and by anesthesiologists.

Ultra-clean laminar air-flow techniques developed by NASA for assembling spacecraft are helping surgeons prevent infections in hospital operating rooms. The number of these special clean room surgeries has risen from less than 50 a year ago to nearly 200 today.

Devices such as eye-operated switches have been used in a Huntsville, Alabama, hospital to test various applications of NASA-developed technology to aid quadriplegics.

Immobile patients are able to do such things as open and close doors and windows, control room temperatures, change radio and TV stations, adjust the position of their beds, and signal the nurse.

Nondestructive testing techniques developed by NASA are gaining widespread industrial use. A good example is a rapid-scan infrared tire tester being used daily by a major U.S. tire manufacturer.

NASTRAN, a computer program designed by NASA to analyze the behavior of structures under stress, is now a design tool familiar to more than 600 American engineers outside the space agency. More than 70 industrial firms, universities, laboratories and Government agencies are using it to solve their structural engineering problems.

For example, front suspension and steering linkages in a line of American cars and light trucks are now being designed with NASTRAN assistance. NASTRAN analysis can also be applied in the construction of bridges, power plants, skyscrapers, and airplanes.

Increasingly items of fireproof or fire protective clothing and fire-retardant or fire-resistant building materials appeared on the commercial market, spurred by NASA research.

NASA has developed several fire retardant or nonflammable foams, paints, fabrics, and glass fiber laminates. The International Association of Firefighters recently asked NASA to develop protective suits from new materials first developed for the space program.

New, successful lines of high-energy batteries appeared on the commercial market during 1972, providing sure, fast starts for portable power tools and sports equipment, thanks to battery technology originally developed by NASA.

These new products include both lead-acid and nickel-cadmium batteries capable of being recharged 90 to 100 times faster than existing batteries. Most commercial batteries required 14 to 16 hours for full recharge. All of the new batteries can be recharged in 15 to 20 minutes without damage to the cells and some nickel-cadmium units can be recharged in as little as 6 minutes.

A heat pin, developed jointly by NASA and the Atomic Energy Commission, found increasing use during 1972 in products for industrial and household markets. The heat pin, first used in NASA spacecraft and in cooling nuclear reactors can transport heat at about 500 times the rate possible with the best solid conductors. It is being used to speed the cooking of roasts, to recover heat lost in furnace flues and to cool the oil in motorcycles.

Paper-thin flat conductors, an adaptation of space technology, are now being marketed commercially. The adhesive-backed flat cables and switches are applied on walls, ceilings and floors with no need for costly installation inside walls or ceilings. They are readily concealed by paint, wallpaper, tile or carpeting.

International affairs

The principal events affecting the NASA international program in 1972 were the May 24 US/USSR Agreement Concerning Cooperation in the Exploration and Use of Outer Space and the European decision to proceed with system definition studies of a Sortie Laboratory for use with the Space Shuttle.

In other areas of cooperative international activity, 1972 was marked by satellite and probe launchings, foreign participation in approved NASA missions, the issuance of nineteen Announcements of Flight Opportunities (AFO's) inviting foreign participation, continued and expanded activity in the earth resources and lunar sample programs, two new agreements completed in support of Project Skylab, and tracking and data acquisition assistance between NASA and certain foreign space activities.

Launch record

The year 1972 was the first in NASA's history in which all of NASA's launches and missions were successful. The 1972 record of eighteen successful launches includes two Saturn Vs, four Atlas-Centaurs, seven Deltas and five Scouts. Eight each were launched from Cape Kennedy and the Western Test Range and one each from Wallops Station, Virginia, and the San Marco platform off the coast of Kenya, Africa.

NASA's Scout rocket, a 100-foot high, all solid-propellant rocket, currently has 28 straight successful launches, a record for the space program. Overall, Scout has an 89 percent success record out of 55 launches while the workhorse Delta rocket has 91 percent successes out of 93 launches.

More than 80 sounding rockets also were launched by NASA in 1972 on a variety of scientific and meteorological missions.

Summary

In 1972, some programs came to close with their initial goals reached or surpassed, while newer programs were being developed with a confidence based on successful past performance. In 1972, NASA-developed technology and systems found increasingly wider use in both the private and public sectors of the national and international economy. In summary, 1972 was a year marked by solid accomplishment both in flight programs and in supporting research and technology.

AVAILABILITY OF THE INDEX TO THE DAILY CONGRESSIONAL RECORD

Mr. HUMPHREY. Mr. President, I am one of those who believes that, despite its limited circulation, the CONGRESSIONAL RECORD is an extremely useful research and public information document.

I try to use the few subscriptions available for assignment by me for the benefit of libraries and others who engage in research.

I wonder if Senators and subscribers are aware that the "CONGRESSIONAL RECORD Index" which appears bimonthly is not automatically sent to subscribers of the daily CONGRESSIONAL RECORD?

An experienced Washington lobbyist recently commented to a member of my staff how unfortunate it was not to have an index to the CONGRESSIONAL RECORD until the annual one comes out in the middle of the following year. Much to our surprise, he did not know about the biweekly CONGRESSIONAL RECORD Index.

Mr. President, I mention this small matter because new Senators may not be aware that the CONGRESSIONAL RECORD Index is not sent to the subscribers they have placed on the list to receive the CONGRESSIONAL RECORD unless this specifically is requested. Moreover, there may be some readers of the CONGRESSIONAL RECORD who would like to request that the Index be sent to them. My staff periodically reviews our list to be sure that libraries in particular are receiving the bimonthly Index.

NIGERIAN PROGRESS SINCE THE CIVIL WAR

Mr. PERCY. Mr. President, on January 21, 1971, I reported to the Senate on my visit to Nigeria the previous fall, and expressed the hope that this war-torn land could achieve its goals of national reconstruction and reintegration, and a return to civilian leadership. I have been heartened by press reports in the 2 years since then, which indicate that Nigeria has made important strides forward in achieving national unity and reconciliation, and that its economy is booming. While there remain many problems to solve, including corruption and continuing tribal rivalries—and the first step toward a return to civilian rule is still ahead—I am encouraged by the progress already achieved.

Mr. President, I ask unanimous consent that an article which appeared in the Washington Post on January 13 on Nigeria since the end of the civil war be printed in the RECORD.

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

NIGERIAN BOOM BEING FUELED BY AN OIL BONANZA

(By Larry Heinzerling)

LAGOS, NIGERIA.—The defiant, tortured land that called itself the republic of Biafra collapsed just three years ago.

The war-weary secessionist state, reeling from shell shock, mass hunger and destruction, could fight no more.

The surrender marked the end of 30 months of civil war, the worst conflagration in Africa since colonial flags began coming down. Estimates of the dead ranged from 1 million to 2 million.

Nigeria, a bustling, culturally diverse nation, let the anniversary on Friday of Biafra's defeat pass with little if any public comment.

The military government, riding a booming oil economy, is too busy planning a bright future for a "new Nigeria." Oil has made possible a breathtaking recovery in the war-ravaged east, and a national policy of reconciliation has eased the post-war transition.

Foreign policy has focused in recent months on the creation of a West African economic community, with Lagos as its hub. Nigeria's military ruler, Gen. Yakubu Gowon, aims to make this nation of 60 million the undisputed leader of black Africa.

The Olympic-style all-Africa sports extravaganza now under way reflects Nigeria's yearning to be the center of attraction.

Oil production, reduced to a trickle during the war, has soared to almost 2 million barrels a day. Oil income this year is expected to reach $51.5 billion, an economic bonanza for a developing nation emerging from civil war. Nigeria now ranks sixth among petroleum exporters.

But the great strides forward have not eliminated a variety of potentially explosive problems.

Corruption infects all levels of government. This is a chronic problem in Africa, because demand for everything outstrips supply. One of the largest consumers is the standing army of 250,000, the largest in black Africa.

The gap is widening between the new urban elite and the rural masses, a trend also visible in other African countries. Mass unemployment, poor agricultural production, squalid public health facilities and rising crime are other irritants.

Tribal or ethnic rivalry remains a persistent source of potential trouble despite the crushing of the Ibos in Biafra. Three major groups—the Ibos, Hausas and Yorubas—are squabbling over how to cut the national cake.

Gowon has staked his reputation on a policy of national unity and reconciliation. There have been no war trials, no executions or other reprisals, and no reparations demanded.

In what was once Biafra, businesses now are opening, the once-empty market stalls are overflowing and construction everywhere is replacing the rubble. Unemployment and a serious lack of capital are hindering full recovery, however.

The starving babies of Biafra are no more. The energetic Ibos are crisscrossing the country again, drumming up business.

In Lagos, the federal capital, night clubs flourish again. A new freeway system is in operation, skyscrapers are going up, and the stores are glutted with imported goods from Japanese television sets to French wines. The country is building a new highway system and constructing 16 airports, with a $74-million expansion at Lagos.

A decree to take effect next year will reserve to Nigerians a variety of businesses now owned and operated by foreigners. The government is seeking greater participation in the oil business, currently dominated by foreign oil concerns, and foreign-run banks.

A census scheduled for November is to be the first step toward a return to civilian rule, which Gowon has promised by 1976.

A debate is already under way over what form of government should replace the military. Whether Gowon, who is 38, is considering taking off his uniform to run for election in civilian dress is not clear. Unlike many African leaders who frequently visit London or Paris, he keeps to the African circuit, making new friends and spreading influence.

African diplomats from other countries flock to Nigeria, reflecting Nigeria's growing political leadership.

DANGEROUS COSMETICS

Mr. EAGLETON. Mr. President, on February 15 I introduced S. 863, the Cosmetic Safety Act of 1973. This bill embodies a number of long overdue changes in the Federal Food, Drug, and Cosmetic Act of 1938.

Title I of the Cosmetic Safety Act calls for mandatory ingredient and warning labeling of cosmetic products, as well as the elimination of the longstanding exemptions from the law for soaps and coal-tar hair dyes. Title II sets forth a new procedure for pre-market testing of cosmetic products. Title III calls for mandatory registration of cosmetics establishments, submission of statements of composition for each product, and submission of complaint letters from consumers on a regular basis to the Food and Drug Administration.

On February 25 an article appeared in the Sunday Sun, Baltimore, Md., entitled "Caution: Ingredients in Cosmetics May Be Hazardous to Your Health." This article by Patricia Kavanaugh discusses several cases which give support to my view we need a much tougher law for the regulation of cosmetics.

I ask unanimous consent that this article be printed in the RECORD.

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

CAUTION: INGREDIENTS IN COSMETICS MAY BE HAZARDOUS TO YOUR HEALTH

(By Patricia Kavanaugh)

Pick up a jar of cold cream, a bottle of mouthwash, or a can of shaving cream, and look at the label. If the ingredients are listed, it's probably a drug. If they aren't, it's a cosmetic.

Everyone uses cosmetics, although most people equate them with make-up. In fact, the legal definition embraces anything that is "applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance," which includes baby powder, shampoo, suntan oil, wigs and deodorants. If a manufacturer claims, on the other hand, that a product will cure a disease or affect the structure or function of the body, his concoction is a drug, and is subject to federal regulation.

In a move that consumer advocates hope will be a first step toward stiffer treatment of the $6 billion-a-year industry, the Food and Drug Administration has proposed mandatory labeling of ingredients. A petition by Joseph A. Page, Georgetown University law professor, and the Consumer Federation of America, requiring the disclosure of cosmetic ingredients on product labels, was published in the Federal Register February 7. After a two-month public comment period, a final regulation will be issued, to become effective after 90 days.

INEQUITIES CITED

The inequities of current regulations are illustrated by two products of the Purex Corporation. Sweetheart soap is a cosmetic, while Cuticura, whose label carries medical claims, is a drug. Cuticura contains 0.325 per cent TBS (tribromosalicylanilide), for which a new drug application was submitted to FDA. At the same time, Sweetheart soap contains 0.6 per cent TBS, almost twice the

amount in Cuticura. But because manufacturers do not make medical claims for Sweetheart, it need not be labeled for TBS, nor approved as safe by FDA.

While industry spokesmen have argued traditionally that disclosure of ingredients would force them to reveal trade secrets to competitors, Professor Page noted, "With modern technology, any chemist can break down a competitor's product." The proposed regulation contains a provision for exemption of demonstrated trade secrets. Colors, flavors, and fragrances need not be identified further. Even with these loopholes, ingredient labeling will reveal an unknown number of drugs, such as TBS, used in cosmetics without FDA's—or the consumer's—knowledge.

About 60,000 people each year are disabled for at least a day or seek medical help for injuries caused by cosmetics, but FDA can seize a product only if it is misbranded, unsanitary, or proven poisonous by serious or widespread reaction.

FDA examines some 400 of about 1,300 known cosmetics establishments annually, inspecting for sanitary manufacture and packaging, and testing random samples of shipments for pathogenic bacteria. Based on FDA discoveries of contamination in 1972, shipments of 12 products were recalled voluntarily by manufacturers.

Tests conducted by Dr. Louis A. Wilson of the Medical College of Georgia revealed that 9 per cent of new eye make-up is contaminated at the time of sale. Dr. Wilson ascribes this bacteria to "sloppy control at the factory," and noted that, unlike eye medication, make-up need not be sterile when sold.

In a related study he concluded that "well over half of used eye make-up samples were contaminated. Most of these bacteria are on our skin surfaces," the doctor commented, "but when they get into used make-up and grow, 2 organisms can become 2 million." The bacteria become dangerous if the eye is scratched by a make-up applicator. Of five such cases, resulting in ulcerated corneas, treated at the Medical College of Georgia, three patients sustained visual damage.

Staphylococcus inflammation can occur as well, resulting in granulated eyelids, repeated sties, and loss of eyelashes. To minimize the dangers of eye make-up, Dr. Wilson cautioned users against sharing eye preparations, or moistening the cosmetic with saliva, and he recommended that consumers replace eye cosmetics quarterly, since the chances of contamination increase with the age of a product.

Allergic reactions to cosmetics frequently show up around the eyes, even though the allergy may be to a preparation used on another part of the body. Seventy-eight per cent of all reactions to nail polish, for example, show up in the eye area.

DIFFICULT TO DETECT

Perfume is frequently implicated in cases of dermatitis or photosensitivity. Since virtually every cosmetic from shaving cream to lipstick is perfumed, it is almost impossible to detect the offender. Hypo-allergenic cosmetics, a booming $50 million-a-year business, are generally fragrance-free, although a user can react to other allergens in the products. There is no regulated standard for hypo-allergenics.

Sometimes a person will become allergic to a product after years of use. This allergy may be due to a change in formula under the same label, with a new ingredient causing the trouble. Or the reaction may be due to sensitization, in which the body builds up an allergy through repeated use. Such was the case of a 70-year-old barber who, after 40 years of applying hair tonic to his customers, developed debilitating inflammation of his hands.

Sensitization can be acute with coal-tar dyes, responsible for blindness and even death in women who used them to dye their eyelashes or eyebrows. Since 1938 manufacturers of hair colors have been required to label products with a warning against use near the eyes and to specify a patch test to be taken 24 hours before applying the dye. Since 5 of 8 people who are allergic will react only with repeated applications, the test must be performed each time.

Beauty operators are often lax even with the first-time patch test. Of five local salons telephoned for an appointment for hair color, none told the customer to come in for a patch test, even though the caller said she had never used hair dye. When the customer asked if she should have a patch test, three operators asked her to come in the day before the scheduled appointment. A spokeswoman for a fourth establishment offered to give the test when the customer arrived, and the fifth person said that a test was "usually not necessary."

Dr. Raymond C. V. Robinson, assistant professor of dermatology at Johns Hopkins, said, "I don't think the average person is qualified to patch test themselves, and it happens that many beauty salons don't bother with the patch test. Most are sensible enough to carry insurance, but when they have patients who react, many try to treat the patient themselves, which is practicing medicine without a license."

MISUSED AT TIMES

Cosmetic injuries can result from misuse by children or adults. Karen Collins, assistant director of the Maryland Poison Information Center, said, "So many mothers are very aware of other poisons in the household and keep them locked up, but it's never dawned on them that a cosmetic could be dangerous."

Mrs. Collins said the center answers at least one call a day from parents whose children have swallowed perfume or make-up. Intoxication and hypoglycemia are possible effects of drinking cologne or perfume, and "G.I" symptoms can result from eating powder or other make-up, according to Mrs. Collins. Although hospitalization is not usually required, vomiting should be induced and if the child has swallowed more than two or three ounces of cologne, a blood-sugar or blood-alcohol test is sometimes recommended.

INADEQUATE INSTRUCTION

Adults often ignore instruction on product labels, and sometimes labels fail to include adequate instructions or warnings. Female deodorant sprays, designed for use in the external genital area, are the source of controversy because of the high number of complaints. Penetration of the vaginal tissue can cause severe rashes, burning, and swelling, but the labels of ten products on the shelves of Baltimore stores carried the typical legend, "designed expressly for the external vaginal area" as a description, not as part of instructions or warnings.

Three products bore the warning "do not overspray," and only one instructed the customer to "discontinue if rash or irritation develops." None warned against spraying tampons before use, or against use immediately before intercourse, a practice which can cause irritation of both partners.

Opponents of the female sprays feel that the contents themselves are dangerous. If sprayed too close to the body, contents can enter the vagina or propellants can freeze mucous membranes. Perfumes can cause irritation, or worse in the eyes of doctors, mask an infection of which malodor is a symptom.

FDA has not moved to reclassify the sprays as drugs, although Dr. Robert Schaffner, director of the Office of Product Technology in the Bureau of Foods, noted that hexachlorophene, once used in many of the sprays, is no longer allowed even as preservative in products to be used on mucous membranes. Nonetheless, two products in a Baltimore drug store bear the label, "Contains Hexachlorophene."

CONSUMER COMPLAINTS

Warner-Lambert, manufacturer of Pristeen, and Alberto-Culver, manufacturer of FDS, admitted to receiving 6 complaints per million units sold in 1971. The level of consumer complaints is cited by foes of the deodorant sprays. One complainant reported a burned hand. Another woman was hospitalized after using a spray for swelling so severe she could not walk.

Asked if a particular level of complaints will motivate FDA to investigate a product, Dr. Schaffner said, "While it's not a hard and fast rule, where we do have information, we will take notice if complaints exceed 6 to 8 per million units sold."

One of FDA's problems is that it is unusual for a cosmetics company to release information on complaints, since they are not required by law to do so. A proposed standard for voluntary filing of complaints, the third stage of a voluntary program of cooperation with FDA, was published in the *Federal Register* last November.

BIG FIRMS REGISTER

The tripartite program, launched last year, involves registration of establishments with FDA, followed by listing of product ingredients and finally, reporting of "cosmetic product experiences" for the purpose of identifying offending ingredients.

Dr. Richard J. Sykes, a cosmetics specialist associated with Ralph Nader, noted, "On the whole the voluntary program is working well, but with major holes. All the big, well-known companies have registered, but many small companies, who account for about 20 percent of production but who normally would take less notice of FDA, haven't registered."

Meanwhile get-tough advocates have proposed legislation to give FDA increased authority over cosmetics. Congresswoman Leonor K. Sullivan, of Missouri, once nearly blinded herself by coal-tar dye, has introduced an omnibus FDA reform law including pre-market clearance of cosmetics similar to existing new drug laws and removal of the exemption of coal-tar dyes and soap from cosmetic regulations. Senator Thomas Eagleton of Missouri has introduced a bill requiring ingredient labeling, warning labeling, and pre-market testing for safety. His bill would also make mandatory the registration with FDA of manufacturers and packagers, their cosmetic product formulas, and records of consumer compaints.

Pre-market testing is a point of contention since manufacturers claim to pretest all products. Critics say that the tests are inadequate, FDS, for example, was tested for 3 days on 20 female rats, for 6 weeks on intact skin of 67 humans, and for 5 weeks in normal use by 31 women.

RESOURCES LIMITED

The Cosmetics, Toiletry, and Fragrance Association, whose 180 member manufacturers account for 85 percent of cosmetics sales, opposes pre-market safety clearance. Suzanne Sommer, director of consumer relations, said, "We believe that this is unnecessary and time consuming. FDA does not have the staff nor the financial ability to undertake clearance."

Critics have accused FDA of caving into political pressure on a variety of issues but the agency's caution is due at least in part

to limited resources. "Lack of funding is one factor," admitted Dr. Sykes. "Cosmetic regulation has always been the poor boy of FDA, buried away in the Bureau of Foods. It really has grown up with the regulation of color additives."

Dr. Sykes solution to the pre-testing problems is to put on industry the responsibility and expense of pretesting cosmetics, with FDA reviewing standards and results. "If FDA really took a hard line they could pressure the industry into a more progressive attitude," he commented. "Cosmetics manufacturers aren't the old robber baron types who say 'damn the public.' They want to keep a good image.

"There's no doubt that the situation is far more ripe now than it has been for a number of years."

ANALYSIS OF THE ENERGY PROBLEM—SPEECH BY SENATOR DOMINICK TO THE NATIONAL WESTERN MINING CONFERENCE AND EXHIBITION

Mr. FANNIN. Mr. President, although the energy crisis has only recently become a topic of widespread discussion and debate, there are Members of this Chamber who have long been aware of the problems and have sought to warn the Nation.

One of these men is my distinguished colleague from Colorado, Senator DOMINICK.

Last month he gave an excellent speech to the National Western Mining Conference and Exhibition in his home State.

This speech provides a summary of how we got into our present dilemma, and the steps we must take to get out of it. The Senator very appropriately points out that there is no one solution which will answer all of our environmental, economic, and national security needs. There will have to be some tradeoffs, some sacrifices, some costs which will hurt.

Mr. President, I would like to commend the Senator for his very penetrating analysis of the energy problem and for his proposals on how it can be best solved. I wish to bring this speech to the attention of the Congress, and I ask unanimous consent that it be printed in the RECORD.

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

SPEECH BY SENATOR PETER H. DOMINICK

The energy crisis is now a favorite topic of speakers from all segments of our society . . . public officials, industry people, environmentalists and consumer groups.

At the risk of saying "I told you so," let me point out that I have been conscious of the impending crisis and have been talking about it for years. In my position as a member of the Joint Committee on Atomic Energy, and to a lesser extent, perhaps, as a member of the Senate Armed Services Committee, I have been listening to testimony concerning our energy resources and the potential dangers associated with our policies toward them for as many years as I have served on those committees.

Back in August of 1971 when I was out here on a speaking tour during a recess, I used portions of a scenario developed by Glenn Seaborg, the former Chairman of the Atomic Energy Commission. That scenario assumed that a moratorium was suddenly placed on the use of atomic energy as a power source and it described the resulting havoc when the nation had to rely almost exclusively on a dwindling supply of fossil fuels to meet its power needs. Schools closed, hospitals went on emergency power, businesses shut down, fuel for transportation was rationed, buses, trains and airplanes were on reduced schedules or not operating at all. Environmental restrictions were waived to permit greater use of high sulphur coal with resultant increases in smog in all the major cities. Mines went into increased production with health and safety considerations pushed to the wall, prices skyrocketed, miners threatened and then went on strike, federal troops were called in to get the mines back in operation, and so on. This was a hypothetical scenario, you understand.

Thank heaven we haven't declared a moratorium on the use of atomic energy, even for the 3 to 4 percent of our power needs which it provides. But perhaps you recognize some similarities between our present situation in Denver and other cities around the country, and this story I have just paraphrased.

I mention this to indicate that while I recognize that energy speeches are in vogue today, I am not a Johnny-come-lately to this area, and I firmly believe that while we will *probably* get through the present emergency without the chaos contained in Seaborg's scenario, some of these forecasts are facing us and if we do not get on with the business of developing some long term solutions to this major challenge right now, all may face us.

Before we even attempt to discuss what some of the solutions may be, permit me to explore the reasons that I think we find ourselves in this situation today. A recent issue of Newsweek Magazine described it this way: "America has passed from a long period of dirt-cheap energy that made it the world's leading industrial power into an era in which its ability to meet its own growing demands for energy comes more into question with each succeeding year." The magazine reveals that "With but 6 percent of the world's population, the U.S. guzzles 33 percent of the globe's energy. . . ."

In a recent speech to the American Gas Association, Stephen Bechtel of San Francisco, pointed out that "For almost every year in our history until 1953, we had a surplus of energy and were net exporters. However, in each of the last 20 years we have become a net importer; and currently about 15 percent of our supplies come from foreign sources." The Bechtel speech, by the way, is an excellent thesis on the whole energy question and contains some sound proposals for bringing it under control. I will be drawing further upon that speech as I continue.

But here we are in 1973 with our demands for every source of energy outstripping our own readily available supplies and the other industrial nations of the world rapidly reaching out to the same foreign sources which we have been using to meet their own skyrocketing demands.

Ironically, the United States is not even close to having exhausted the *minerals* which are the sources of energy contained without our borders. Experts differ on the exact figures, and all are estimates, of course, but most will agree that we have enough coal in this country to furnish our total energy requirements for over a hundred years. There is an ample supply of uranium to serve our energy needs for years to come, even using the reactors now being installed, and with the implementation of the fast breeder reactor, these supplies could become practically inexhaustable. It is true that our demands for oil and gas have already exceeded our production capacity, and there is little optimism that this trend can be reversed, at least so long as we continue to employ these products for the wide range of requirements which they must satisfy today.

Then, what is the problem? With regard to coal, you are well aware that environmental constraints have been largely responsible for the trend toward substituting other fuels—and I think we will start to refer to them as "Premium Fuels"—such as oil and natural gas for coal. Natural gas became an attractive substitute for coal as a source of electrical power and for use in factories because it burned cleaner and was much cheaper. The same is true of oil. As more factories and power generating plants began to turn to these products, the demands went up, and the supplies were taxed with the resulting alteration of our export/import situation.

The picture with regard to atomic energy is somewhat different. It must be remembered that we did not begin to develop atomic energy for generating electrical power until about twenty years ago, and nuclear power has yet to become a major operating alternative source. Progress in getting additional nuclear generating plants on the line has been slowed by court actions and executive decisions based on environmental considerations. The breeder reactor, which many, including me, see as a potential medium range answer to our energy problems is still some years away—perhaps as much as twenty years away.

The Congress, the President and industry are involved in developing sound programs which each considers will be the blueprint to meet this most important domestic challenge. Within Congress, there is probably more of a divergence of opinion than in any other segment of society. My colleagues who feature themselves as the champions of the consumer (and frankly any of us who don't act in what we consider to be the best interests of the consumer *and* the nation won't be around very long!), but those who seem to seek the label of consumer advocate to the exclusion of all else, will be looking for some program which will give us ample energy, clean air, and adequate balance of payments situation and sound national security—at no increase in costs to the constituents! The man who can deliver that under the conditions we now face is not on this earth.

My point is, any program which will accomplish the objectives I have just stated, and I consider them sound objectives, is going to cost plenty. Peter Flanigan has summed it up rather well as quoted in that Newsweek article: "Everything must give a little—national security, environmental quality, and price." To which Newsweek responds, "Compromise pleases no one completely, of course, but the alternative seems to be to throw the nation out in the cold."

Let us begin with those thoughts as our frame of reference, and examine what I consider to be some possible short range and longer term solutions to this problem. Two immediate steps must be taken: First we must increase our imports of oil and to a lesser extent natural gas, and second, we must convert industry from those fuels to coal.

The National Petroleum Council's "U.S. Energy Outlook" has concluded that "Because of long lead times required to increase domestic production, energy imports must increase over the next few years. In the short term, through 1975, options are limited for altering the trend toward greater dependence on foreign energy sources."

This is a solution which I suggest with the greatest reluctance for two very significant reasons: balance of payments and national security. Again quoting from the NPC's En-

ergy Outlook, "Greater oil and gas imports will have a major impact on the nation's balance of payments. The cost of imported fuels, less the sales revenue from fuel exports, results in a sizeable net dollar drain. This dollar drain was $2.1 billion in 1970. It will range from about $9 to $13 billion in 1975 . . ." The report projects a threefold to fifteenfold increase in foreign exchange requirements by 1985 over current levels. The Council concludes that "To pay for our imports of fuel, we will need to seek additional exports of other goods and services. The magnitude of the potential problem in this area is highlighted by the fact that today our total annual exports of all goods and services is only about $65 billion."

And a U.S. Commerce Department report discussing the growing reliance on Saudi Arabia for oil says it is only a matter of time before the U.S. slips into a net deficit in trade with that country for the first time in history. It concludes that: "The aggressive selling on the part of U.S. exporters that might possibly prevent this from occurring has yet to develop." Nevertheless, this increase in imports must be taken as one *short-term* solution, and I emphasize that for my part, I would like to see it terminated at the earliest possible opportunity.

Part of my reason for that is as I suggested a few minutes ago, the matter of national security. Again from the Petroleum Council Report: "Besides the possible large increases in volumes of imports, a shift in the source of those imports through 1985 is indicated. A larger share of U.S. imports will come from the Eastern Hemisphere. Thus, as imports rise, the country will become increasingly dependent on the political and economic policies of a small number of distant countries. This, in turn, can have important consequences with respect to the military, political and economic position of the United States. Consideration should be given to the need for additional storage to cushion the impact of possible near-term interruptions of foreign supplies, and the desirability of utility plants being constructed to burn more than one type of fossil fuel."

On this same note, Ray Vicker, writing from Saudi Arabia in the January 23 edition of the Wall Street Journal notes, "Like it or not, Washington may have to pay more attention to Arab wishes and sensitivities—because by 1985 it is estimated the U.S. will be importing about half of its oil, and most of this will come from the Middle East."

So far all of this talk about reliance on foreign resources has centered on the political considerations within the countries with whom we will be doing business. But let me add some personal observations from my seat on the Senate Armed Services Committee.

You need only recall the events if June 1967 to realize how quickly the international situation can change with regard to our traditional sources of supply and the routes by which we receive them. The Middle East War could have dried up our supplies in a matter of weeks, had it gone on. But further, the supplies cannot reach us if our free access to the seas and waterways of the world is challenged.

As you know, for many years this country went unchallenged as the major sea power of the world, able to guarantee without question the right of access to the sea lanes of the world to all nations. However, our superiority is facing a serious challenge. The Russian Navy has grown dramatically in the last ten years. Most of their ships are less than 20 years old while many of ours should have gone into moth balls years ago. They have weapon and missile systems equal to and in some cases perhaps superior to our own, and the Russian submarine force presents a very serious potential threat to our traditional freedom of the seas. In addition, the Soviets seem to have made inroads into many countries positioned along the narrow waterways and straits through which we must pass—and which we must keep open—to insure delivery of foreign oil to this country. President Nixon has made progress in his talks with the Soviet Union, and we are in less danger of an international confrontation now than we were even a year or two ago, but all of these factors, together with the tenuous cease-fire arrangement which still exists in the Middle East must be considered, and we must reduce our reliance on foreign imports as quickly as possible.

The second portion of my short-range solution is of particular importance to you. We must begin right now to convert industry from oil and gas to coal. Most studies I have seen conclude that gas is an improper source of energy for industrial uses. *Gas must be considered a premium fuel.* It must be reserved for that segment of our markets which cannot economically or for other reasons utilize coal—residential, commercial and other special areas.

My friend, Russ Cameron, in an address in Billings, Montana, last fall declared that between 25 percent and 40 percent of the gas being consumed in this country today is used for purposes for which other fuels are suitable. But he points out that we are now about to reverse the substitution process which accounts for those percentages, because we are nearly out of that low cost gas that started the change in the first place.

A similar situation exists with oil. Oil supplies about 45 percent of our total energy requirements, and a good percentage of that requirement cannot be economically satisfied in any other way. Autos, airplanes and buses are not likely targets for coal substitution, and it is doubtful that we could convince the railroads to go back to the steam locomotive, even though many a romantic railroad buff still longs for the sound of old number nine. But we must change over those uses of oil that can be switched to another fuel, and one excellent alternative fuel is low sulfur coal. The only problem is that the transition is still going the other way: industry is still converting to low sulfur oil and the supplies are getting scarce.

In order to begin the transition in earnest, we must make such a step attractive to the industry concerned. There are some obvious incentives, of course, and others must be developed. The most obvious incentive to any industry is economic. Another winter with interruptible natural gas service and resultant shut down of operations would not be a pleasant prospect for anyone trying to make a profit. Scurrying around later this year to nail down contracts for enough low sulfur fuel oil appears to be a similarly unenviable prospect. But if the costs of low sulfur coal are significantly higher, transition to coal will proceed at a much slower pace. Frankly, I don't believe this will be the case in the foreseeable future, because the only way we will meet even the present demands for natural gas and oil is through the increased imports we have talked about and new exploration and development at home. Neither of those alternatives is cheap, and it is anticipated that costs from either alternative will drive prices up to the extent that low sulfur coal will be quite competitive. It may be that we will have to come up with some other means to encourage transition to coal, such as rationing, tax incentives and certainly an intensive public relations and sales program aimed at, as Russ Cameron puts it, taking gas and oil out from under the industry's boilers and putting it where it's needed more.

We have plenty of low sulfur coal to replace some uses of gas, oil and even high sulfur coal. We can see it becoming competitive in cost through improved mining techniques, new innovations in transportation, such as coal slurry pipelines, and the inevitable increases in the costs of oil and gas.

There is one more problem, and this is the matter of environmental considerations. While the end product may be compatible with emissions standards now in effect, the means of obtaining the product—the mining operation itself—is, as you all know, coming under ever-increasing scrutiny because of the effects on the natural environment. And this applies to the entire mining industry, not merely to coal mining, of course. But even in 1970, 44 percent of all coal came from surface mining and current trends seem to indicate even greater emphasis on surface extraction in the future.

Let me tell you before I go on that I am in no way suggesting that we abolish surface mining operations for coal or any other minerals. I recognize too well the disruption in our economic structure and the deleterious effect on our standard of living. But what I am saying is, there are pressures from segments of our society to do just that, and there are others of us in this society who are unwilling to accept unrestricted, or insufficiently regulated surface mining in those remaining portions of our country which are essentially unspoiled.

Pollution of lakes and streams, dust and noxious gases in the atmosphere, unreclaimed stripped areas, and the dangers of accessible open pits or other terrain characteristics remaining after abandonment of strip mines have left their mark upon the land and in the minds of millions of people who desperately desire to protect our dwindling natural resources, one of which is the many wilderness areas of our country.

Many of you know that late last year, in response to the concerns of people on the Western Slope and articles in the Ouray County Plaindealer and Herald, I wrote the Bureau of Land Management expressing my concern over a leasing arrangement for strip mining coal by Kemmerer Coal Company of Wyoming in our Cimmaron Ridge District. It is my feeling that such an operation is not compatible with the present uses assigned that land, namely hunting, fishing, grazing, camping and general outdoor activity. At the very least, I sought assurances that every possible consideration be given to environmental impact, and if such consideration resulted in negative conclusions, that we seek to terminate the leases.

Again, let me emphasize that I probably recognize our national energy needs more than most of the people with whom you will be facing similar objections. And I further recognize that as we move toward resolving our energy crisis, compromise will be necessary. But compromise means movement on both sides, and my point here is that as we place heavier demands for low sulfur coal, and for that matter the many other minerals which must be surface mined, you must be prepared to spend larger sums on reclamation and you should also be prepared to explain your plans in the greatest possible detail to the public prior to commencement of your operations.

Environmentalists are not unreasonable or unintelligent people. I believe that compromise is essential for the benefit of the nation's mineral needs, but it will take some increased spending on your part for environmental controls and reclamation, a willingness on the part of the public and some of their representatives in the Congress to accept the resultant higher costs of the end product, and concerted effort to exchange information and ideas among all the parties

to indicate good faith. Along this line, incidentally, I have been told recently that coal producers like to think in terms of spending about $200 an acre on reclamation. It has been said that even spending up to $25,000 an acre in some areas, the cost of the coal would not increase by more than 10c a ton. Now before you react too strongly, let me add that I recognize the many factors which determine both the cost of reclamation and the cost per ton of coal, and similarly I understand that an acre of land which might be in an area where the going price for undeveloped land was $75 an acre would not be a likely target for a $25,000 per acre reclamation project! But again, the need for greater concern for our remaining undisturbed lands, streams and lakes must become a major consideration as demands for surface mined minerals increase in the wake of our present crisis.

Increased imports of oil and liquid natural gas and increased use of low sulfur coal as a substitute for them where possible are my two primary short-range solutions. Others include an immediate effort toward more efficient use of energy through improved operation of our appliances and automobiles, for example. Some have suggested at least a temporary waiver of further emission control devices for autos because the controls put into effect thus far have reduced efficiency of the engines to the extent that fuel consumption is up about 7% and still rising. This *is* an area where compromise may be necessary. And it is also another reason why better means of transportation—such as the proposed people mover project in the Denver area—must be developed as rapidly as possible.

In the immediate future, we must work to overcome environmental problems—real and imagined—which hamper immediate construction of more nuclear power plants for electrical power.

Also in the immediate future, we in Congress must pass some legislation deregulating the price of natural gas at the well head, a step which would, of course, result in price increases, but which would also be a factor in encouraging industrial users to move to coal and which would insure home dwellers and other premium customers adequate supplies of gas. The other factor in deregulating the well head price, of course, is to stimulate additional exploration and development of our domestic natural gas resources.

We can also look for some sharp increases in oil costs and I believe that we must not entertain the slightest thought of tampering with the 22 percent oil depletion allowance at a time when additional incentives may be necessary.

This will not be a pleasant pill to swallow. We have enjoyed an energy bargain in this country for years, but experts now predict increases in total energy costs of 50 to 150 percent over the next ten years, and some estimates are even higher.

The longer range solutions to our energy needs are fascinating. The breeder reactor, which I have already mentioned and which uses plutonium to generate more fuel than it actually uses, the concept of harnessing solar energy, and beyond all of this, the great adventure of controlled thermonuclear fusion. It is my hope that we can have a large economically feasible thermonuclear demonstration power plant in operation by the year 2000. These are just a few of the longer range possibilities.

Closer, perhaps, is oil and even gas from shale, with the work on our Western Slope most important to the future of this energy source. Oil from coal and coal gasification are two more possibilities which are now economically infeasible, but which through increased research and development and the projected cost increases of our conventional energy sources, could very well become medium range alternatives. The nuclear stimulation of natural gas deposits, such as proposed in Rio Blanco and accomplished in Project Rulison is another possibility. There are others, of course, and this subject becomes more fascinating as it becomes more challenging.

In reflecting on the situation in which we find ourselves, I think there is some interesting food for thought . . . It seems to me that over the three hundred and some years that we have occupied portions of this continent, we have always been faced with the challenge of pushing farther out, opening new territory, and taking the resources we needed as we continued to grow and prosper. I believe we are now turning our attentions to a new challenge, that of conquering our environment. The challenge is the maintenance of a quality of life and the effective management of the resources necessary to maintain it. It seems to me that the transition from conquering nature in the form of new lands to conquering our environment and the challenges it presents may be difficult but it is necessary. It means acquiring a new understanding of the value and availability of our resources and a recognition that we have attained a highly developed and advanced society but not without paying a high price in terms of resources expended to accomplish it. Over the remainder of this century, much more of our attention will be expended toward increasing the efficiency of our technology, and encouraging the conservation of our natural resources in search for an even better quality of life for all mankind.

CONCERNED STUDENTS

Mr. HUMPHREY. Mr. President, in the wide realm of the American political process I find nothing more personally satisfying than seeing the involvement of young people in the workings of our Government.

Last week over 700 students from across the Nation came to Washington to lobby for those interests unique to the student population of America. This effort in participatory democracy was being sponsored by the National Student Lobby, a permanent organization working closely with the Congress for the interests of students. With the enthusiasm and fervor so characteristic of young people, these students met with scores of Representatives and Senators to express their opinions, their criticisms, their hopes and their aspirations about the future direction of America. Whether we support the particular programs or not that they advocate is of little importance. It is their very presence here in the Nation's Capitol that gave me so much pride and which prompted me to commend their activity.

Out of the apathy of the 1950's and the cynicism of the 1960's, the students of the 1970's have embarked on a path of reasoned and dedicated involvement in their society and its government. They are demonstrating their deep concern for the problems that beset the United States and their willingness to work within the system for the eradication of those problems. Beginning with involvement in political campaigns and moving into issues directly related to students, young people have now involved themselves in vital issues of national importance. It is only fitting that they do so.

It is the student population along with millions of other young Americans who have a profound stake in the operation of this Nation. For it is they who shall inherit whatever we have built—all of our achievements and all of our problems. Accordingly, they are anxious to see change come quickly to America, and we cannot fault them for that hope. More important, we have a responsibility not to let them down.

Mr. President, there is so much to be learned from the voices of young Americans that I welcomed the opportunity to meet with them. I believe that this sentiment is shared by my colleagues.

CHALLENGES TO THE NATION

Mr. SAXBE. Mr. President, as the 93d Congress gets down to work, the Nation stands at an interesting and challenging point in world and national history.

Thankfully, a settlement has been achieved in Vietnam, and there is a glimmer of hope that world peace may, indeed, become a reality for the first time in many years.

With the world growing smaller and the destructive capacity of nations growing larger each day, every effort must be made to reduce tensions between peoples and nations, and to develop an international spirit of cooperation in seeking solutions to mutual problems.

The "One World" envisioned by Wendell Wilkie in the early 1940's is truly upon us. Recognizing this, President Nixon has embarked upon a course to improve relations with all countries, the foundation of which is the need for interdependency imposed by modern economic and social conditions.

Hopefully, we will be able to ultimately improve relationships to the point where war will no longer be a constant threat.

But, until such time, we must continue to maintain high-level military capability to deter any would-be aggressor—large or small.

On the domestic scene, we have made substantial progress toward strengthening the economy and in reducing the growth of crime.

I am in general agreement with the direction of President Nixon's proposed budget which aims to cut out wasteful spending, reduce the size of the Federal bureaucracy, and return more power and responsibility to local and State governments.

The most immediate problem—that of avoiding runaway inflation—is tied directly to the budget deliberations.

A sharply reduced rate of Federal spending will make a significant contribution toward stabilizing the economy.

There are numerous other problems with which all of us must come to grips. Major among them this year will be:

First. The growing cost of medical care.

Second. The changing needs in education.

Third. The Nation's energy supply.

Fourth. The drug problem.

Fifth. Environmental concerns.

Sixth. The restoration of congressional powers and authority eroded away over a period of years.

All of these things are of great concern to the people of Ohio, and I intend, as their representative, to devote much of my time in seeking their solutions.

Following is a review of my activities in regard to the major concerns of the past year:

VIETNAM

No other issue so concerned the U.S. Senate during the past 2 years as did our involvement in Vietnam and the subcontinent of Southeast Asia.

The so-called end-the-war amendments were tacked on to many bills being considered by the Senate. In essence, these amendments proposed the cutting off of funds supporting our involvement in Vietnam. Several of these proposals passed the Senate, but died in the U.S. House of Representatives and were thus defeated. I consistently opposed these amendments on the grounds that the President was the only one who could, as a practical matter, end our involvement in this tragic conflict.

My hopes and beliefs and those of my fellow Ohioans were sustained in January of this year when President Nixon, through his emissary, Dr. Kissinger, concluded an agreement with the North Vietnamese.

As I write this, our prisoners of war are on their way home to their families and loved ones, some for the first time in more than 8 years. In South Vietnam there is peace, although its existence is a fragile one. I hope that peace will continue in that corner of the world and that we can now begin to direct our attention to other matters of great concern to Americans.

I believe this Nation owes a debt of gratitude to the President for his steadfastness in pursuit of an honorable peace agreement. This accomplishment was achieved in spite of intense domestic pressure to withdraw on any terms. It is easy to hold to your position when there is unanimity of opinion in support thereof. It is the mark of greatness to adhere to a belief when a substantial segment of your countrymen are repudiating it, and you will be the individual who will be judged in history on the success or failure of your policies.

DEFENSE SPENDING

Aside from the war in Southeast Asia, no single issue influenced the defense spending policy of our country more than the interim agreement between the United States and the Soviet Union to limit strategic offensive weapons. Although the impact of this agreement on the military budget was not fully felt in the 92d Congress, all controversial weapons systems in the military procurement authorization bill were considered with reference to the language of the SALT agreement.

Under the agreement, the United States and the U.S.S.R. agreed to a 5-year restriction on strategic offensive missile launcher deployments pending negotiation of more complete limitations on strategic offensive arms. Briefly, the parties agreed to curtail construction of land based intercontinental missile sites and to limit submarine launched ballistic missiles to numbers operational and under construction on the date of the agreement, May 26, 1972. Under the agreement the United States may have 1,054 land-based missiles and 710 missiles in 44 submarines. And, the Soviet Union may have 1,618 land-based missiles and 950 missiles in 62 submarines.

I voted in favor of the joint resolution authorizing approval of the interim agreement, and for the amendment urging the President to seek a future treaty which would not limit the United States to levels of intercontinental strategic forces inferior to limits given the Soviet Union as new and more permanent SALT agreements are made. The interim agreement together with other treaties provide for a more stable strategic balance in the next several years. Strategic arms competition must not go unchecked, and this type of negotiation and agreement between the United States and the Soviet Union is the first steps in ending the arms race.

The military procurement authorization bill was pending in the Senate Armed Services Committee during and after the SALT agreements. My colleagues and I, as members of this committee, evaluated requests for strategic weapons systems contained in the procurement legislation with direct reference to the SALT agreement.

The acceleration of the development and procurement of the Navy's Trident submarine was one of the most controversial budget requests. I voted for the amendment to return the Trident to its original production schedule. A weapons systems should not be produced until the research, design and testing is completed. To do otherwise is to promote cost overruns and lower cost effective weapons systems. I believe we need the Trident, but accelerating the program would escalate the arms race beyond the thrust of SALT at high cost to the American taxpayer. My vote supported return of the submarine to its original construction schedule approved by the Department of Defense last year. I preferred to see acceleration of the development of the undersea long range missile which would allow our present Polaris fleet to expand its range, lowering the possibility of detection by Soviet anti-submarine forces.

For the same reason, cost effectiveness, I drafted and sponsored an amendment deleting the authorization for the CVN–70 nuclear strike aircraft carrier. In an all-out war, carriers would be prime targets, vulnerable to surface-to-surface missiles, submarines, and air-to-surface missiles. Vulnerability reduces the use of carriers to primary roles of limited warfare and showing our flag around the world. Also, a vote for the long-lead funds in this bill committed us to spend approximately $1 billion according to current Navy estimates. However, the two nuclear carriers now under construction have increased 88 percent in cost over the original projections. In short, the CVN–70 was too much, too soon. It was too expensive and not an important priority.

The military procurement legislation passed the Senate authorizing over $20 billion for fiscal year 1973. This amount included money for military research and development, testing, ABM construction and prescribed personnel expenditures for active armed service and selected reserve manpower. I voted for the bill after the Trident and CVN–70 amendments were defeated. The Senate Armed Services Committee reduced the authorization by almost 12 percent for the budget request, and the bill contained a number of vital strategic and tactical programs. Even with SALT agreements an annual procurement bill will be needed. I also supported the appropriation bill and conference report that was finally passed by both Houses of Congress and signed by the President in the amount of $74.4 billion—down $5.2 billion from the Departmentof Defense request.

We must strengthen our viable military programs and maintain an adequate nuclear deterrent, as well as modern tactical ability. In this regard, it is important that Congress spend more time and effort analyzing the military budget. We must not be so parochial that we lose sight of the scope of the entire budget and its effect on our national priorities. Instead, each item requested by the Department of Defense must be gone over with a fine-tooth comb. Blanket percentage cuts will not work if we are to spend tax dollars for cost effective defense systems that will adequately deter an attack against us. And, Congress must take full responsibility for its authorizations and appropriations if it is ever going to reestablish itself as a full partner in the balance of power sustaining our democracy.

HEALTH

Health costs have become a major concern to virtually every American family.

In the Congress, a number of proposals are currently being considered that would provide some form of national health insurance designed to assist families in handling the problem of the growing cost of health care.

I am particularly interested in the concept of added protection against catastrophic loss incurred by families experiencing a major hospitalized illness such as cancer or prolonged disease of vital organs.

In such cases, families may be hit so hard that their entire life savings may be wiped out, or they may be left with debts from which they are never able to recover.

I intend in this session to continue to fight for a solution to the many health care delivery problems.

During the 92d Congress, I introduced a bill designed to reorganize, expand and improve the Nation's health care delivery system. Many aspects of my bill were incorporated in the health maintenance organization bill which passed the Senate this year. Unfortunately, the Senate HMO bill did not become law because the House did not complete action on it.

Perhaps the most significant health legislation to pass Congress in 1972 was H.R. 1, the massive social security legislation containing some new reforms of the Medicare system. A major addition to the medicare system is the professional standards review organization, a physician's peer review system designed to provide some cost and quality control checks on our runaway medicare expenses.

We must continue to explore ways we can improve health services for the aged, but we must be sure that medicare is properly funded to avoid the cost-balance squeeze that has been experienced in connection with the current medicare program.

EDUCATION

Education in America is coming under greater scrutiny than at any time since the turn of the century.

There was a time when a general course was sufficient to prepare young people for various roles in society. But the advent of the mid-century technological explosion brought with it the need to provide a wider variety of educational options and opportunities.

Unfortunately, the educational system was slow to respond, except in the field of higher education. At the secondary school level, students were forced to continue in college-preparatory programs with little or no alternative. Since only 35 percent of our young people enter college, 65 percent enter the labor market without skills to command good paying jobs.

Today, there is new emphasis on career education, which provides broader opportunities in all types of occupational education, as well as preparation for college.

We must continue to seek ways and means to provide the young people of America with full educational opportunities, whether or not they plan to go to college.

Every effort should be made to improve higher education, particularly in relation to the training of those who choose to enter the professional and semiprofessional fields. And we should do everything we can to encourage the development of alternate courses of education for those who want to go to work in nonprofessional areas right out of high school.

HIGHER EDUCATION

The omnibus education bill was passed by the Congress and signed into public law by the President on June 23. The Senate approved it by 63 to 15 and the House by 218 to 180. I was among those voting for it.

The compromise measure authorized $19 billion for higher education through fiscal 1975, and includes new "basic" grants entitling needy college students to a maximum of $1,400 a year less family contributions. It also creates college operating subsidies linked largely to each institution's enrollment of basic grant recipients and its other Federal student aid receipts.

It creates a National Institute of Education proposed as an agency for research on the learning process and other educational questions. In addition, the bill authorized $1 billion in each of the next 2 fiscal years for aid to desegregating school districts. It extends and expands present higher education programs as well as authorizing the new student aid and college subsidies. Other new programs cover aid for college recruiting and enrolling more Vietnam veterans, for Indian education, and for posthigh school occupational education.

The bill also creates a National Student Loan Marketing Association to increase the volume of Government-backed private loans for college students. Also authorized are Federal incentive grants for State student aid programs.

COMMUNITY SCHOOL CENTER

I was a cosponsor of S. 2689, the Community School Center Development Act. Unfortunately, the Congress adjourned without acting on it. I feel that it is an excellent piece of legislation and it will be reintroduced early in the 93d Congress.

The community school concept aims at transforming the traditional role of the neighborhood school into that of a total community center for people of all ages and backgrounds. The school could work in partnership with other groups in the community to provide recreational, educational, and a variety of other community and social services. Economy could result from new uses of existing resources as well as elimination of duplication of effort, which now occurs.

BUSING

No single issue was more visible in the field of education legislation in the 92d Congress than busing. The bill sent to Congress by the administration in March was a defensible one. It had been carefully thought through in terms of what would have to be done if the bill were to stand up constitutionally. One of the vital distinctions was much tougher restrictions on the crosstown busing of elementary schoolchildren than on the busing of older children in areas where outright segregation persisted. This was in line with court pronouncements that age is a legitimate consideration in ordering what amount of busing is necessary.

In late August the House passed the bill, but in much tougher form. It erased the vital age distinction, applying the busing-distance restrictions to children in all grades; and its provision to permit the reopening of long-settled desegregation suits threatened an explosive collision between the legislative and judicial branches. The bill was simply too hard-line to survive in the Senate and has been set aside until the 93d Congress when, hopefully, there will be a more rational atmosphere on the busing issue.

I do not support unnecessary transportation to achieve arbitrary racial balance. I do, however, accept busing as a remedy to overcome officially imposed segregation and to serve the purpose of equalizing educational opportunity within a reasonable area. There are other ways to integrate schools such as building new, centralized educational parks, redrawing school attendance zones within a district and pairing previously segregated schools and exchanging students between them.

ENVIRONMENTAL CONCERNS

Six major environmental bills were enacted into law during the second session of the 92d Congress, classifying it as the most productive environmental session in history. As an outdoorsman and nature enthusiast, I have long been a strong advocate for pollution control measures. During the second session of Congress, I have consistently voted for preventive safeguards designed to protect our environment.

Since the beginning of the 19th century, a steadily expanding population and economic growth in the United States has placed unprecedented demands on our freshwater supplies. The Nation's water resources are fundamental to the well-being of present and future generations and represent priceless national assets which can and must be managed to meet all needs. Therefore, I strongly supported and voted for the water pollution bill which set a national goal of eliminating all pollutant discharges into the U.S. waters by 1985 and an interim goal of making the water safe for fish, shellfish, wildlife, and recreation by 1983.

At the same time, the realization is growing that man cannot tolerate indefinitely the levels and types of noise that are presently a party of a modern industrialized nation. I voted for the noise control bill which is the first comprehensive Federal legislation aimed at reducing noise detrimental to the human environment. It provided for Federal noise emission standards on commercial products including construction and transportation equipment.

Another major bill, which I supported is the Toxic Chemical Act, designed to regulate pesticides for the protection of human beings and the environment. An emphasis is being placed on minimizing the use of persistent pesticides, finding effective substitutes which are less harmful in the environment and developing alternative approaches to pest control. The second major task is to intensify the search for solutions to those aspects of the problem which are still beyond the reach of our knowledge.

Our natural coastal areas are being nibbled away. Pollution of estuaries and ocean dumping of wastes pose further problems. Therefore, I voted for both the coastal zone management and the ocean dumping bill. Coastal zone management provided for Federal grants to the States

to help them develop programs under Federal guidelines in the national interest. The Ocean Dumping Act declared a national policy of regulating ocean dumping to protect human health and welfare, the marine environment and the economic potential. It banned the transportation out to sea or dumping under any circumstances of radiological chemical or biological welfare agents or high level radioactive wastes.

I also stood behind and supported the marine mammal bill which established a permanent moratorium on most killing of ocean mammals and on the importation of their products.

In the last 6 months this country's tremendous and growing appetite for fuels has stimulated a major emphasis on the merits of energy conservation versus a clean environment. We have seen growing evidence that supplies of oil and gas have not been sufficient to meet energy needs. At the same time society wants both a plentiful supply of energy and the quality of life provided by a clean environment. We should strive for a balance to meet our commitments and responsibilities in both areas of concern. Bearing in mind that different areas in our country have varying levels of air pollution. Any solution to this problem should be flexible enough to take these variances into consideration.

The goal of the United States is to adopt an environmental program that will not force us to abandon growth but to redirect it. We must balance economic development with conservation of land, water, air, and other resources in such a way as to maintain a life of dignity and social justice. I will continue to vote for and support measures that provide for the quality of human environment. This must be maintained at a level that will allow generations yet unborn to have the resources which they rightly deserve.

We should provide means to establish more realistic Government policies and set environmental standards that can be economically attained while still permitting the acquisition of the fuels we must have. Therefore, we should move with dispatch on these matters, but with due caution to avoid needless shutdowns of industry and resulting joblessness.

SOCIAL SECURITY AND RAILROAD RETIREMENT

The 92d Congress took several important steps to insure a better life for the elderly.

A record 20-percent increase in social security benefits passed the Congress on June 30, 1972, and was signed into public law by the President on July 1, 1972. I was a cosponsor and active supporter of this proposal which was successfully offered on the Senate floor as an amendment to the debt ceiling legislation. The amendment also contains a section which calls for automatic adjustments in social security payments when the cost-of-living index advances 3 percent or more in a year.

On October 30, 1972, the President signed an omnibus social security and welfare bill. This $5.3 billion package makes more than 100 changes in the social security, medicare, medicaid, and aid to the aged, blind, and disabled programs.

The new law provides a minimum benefit for long-term, low-wage workers. It boosts benefits for deceased widows and widowers from 82.5 percent of the deceased spouse's entitlement to 100 percent. It permits social security retirees to earn up to $2,100 a year without any reduction in benefits—the outside earnings limitation was previously $1,680 a year. For earnings over $2,100, benefits will be reduced $1 for each $2 earned. It increases benefits by 1 percent for each year from age 65 to 72 that a person delays retirement—after age 72, a person can receive full benefits regardless of earnings. And, finally it improves benefits for men who retire at age 62 by applying to men the same rules which previously applied only to women.

Possibly the most significant provision of the legislation is federalization of the existing Federal-State welfare system for the aged, blind, and disabled poor. At present, each State has its own system and eligibility rules, with the Federal Government paying a share of the costs. Starting in 1974, a new supplemental security program will provide a minimum Federal income—$130 a month for an individual and $195 a month for a couple—to every aged, blind, and disabled person in America without other income or property. The first $20 of social security or other income will be disregarded in determining eligibility for the supplemental payments. Thus, since most aged people receive social security benefits, the program will assure that, in a great majority of cases, incomes will be at least $150 a month for individuals and $215 for couples. Moreover, the bill allows $65 a month in earnings to be disregarded in determining eligibility for, or amount of, the supplemental security payments. Additionally, when considering earned income above $65 a month, assistance payments will only be reduced by $1 for each $2 earned. These provisions will give adequate recognition to the efforts of working people to provide for themselves.

In order to pay for the 20-percent social security increase and the liberalized benefits, social security taxes have been raised to 5.85 percent on the first $10,800 a year yielding a maximum tax of $631.80 for both the employer and employee. In 1974, the tax will be 5.85 percent on the first $12,000 yielding a maximum tax of $702.

I realize the burden that increased social security taxes place on the small businessman and the young worker. However, the taxpayer should remember that social security is not simply a retirement annuity program, but actually it is a whole series of different types of insurance including medicare, disability and death benefits. Moreover, the Social Security Administration has indicated that, unless major new benefit systems are added, the basic tax schedule put into effect by the Congress last year should rise only slightly until the year 2011. Additionally, the Aging Committee, on which I serve, has started a study of the possibility of greater use of general treasury revenues to fund new benefits in the future.

In another move to improve tne lot of our elderly the Congress voted for a 20-percent increase in the pensions for 900,000 retired railroad workers. But, the bill made the increase temporary through next June 30 with the understanding that Congress by then would increase worker-employer contributions or find some other way to make the fund actuarily sound. The trouble with the retirement fund is that the number of workers paying into it is steadily declining as railroad service shrinks or becomes automated. There are about 600,000 workers paying into a fund that supports more than 900,000 retirees. In the beginning of the 93d Congress, I look forward to seeking a solution to this inbalance insuring that the fund will remain solvent in the years to come.

REVENUE SHARING

A major economic action of the 92d Congress was the passage of a 5-year, $30 billion revenue-sharing bill, providing Federal funds to State and local governments with minimal restrictions on its use. Originally, I favored the revenue-sharing concept and even cosponsored the administration's revenue-sharing proposal, recognizing the serious financial distress of some States and localities in this Nation.

However, after what the committee did to the revenue-sharing formula, I could no longer support the bill. They devised a distribution formula which seriously shortchanged Ohio and, at the same time, made the distribution to localities grossly inequitable. Under the present revenue sharing law. Ohio gets the lowest per-capita share of any State in the country. That means our State is last—50th in line at the revenue-sharing trough.

To me, it was time for someone to stand up against this unjust dissipation of Federal funds, and consequently, I voted against the entire bill and against the final conference report. I believe that a big State like Ohio—fifth largest in the Nation—deserves to get back its fair share or what it contributes to the Federal Government and I will continue to fight for that right.

CONSUMER LEGISLATION

Congress passed and the President signed into law a landmark consumer bill creating an independent Consumer Product Safety Agency to protect consumers against hazardous products. The five-member Consumer Product Safety Agency has the power to set safety standards for all common household and recreational products and to seize and bar hazardous products from the marketplace. I voted in favor of this legislation which is by far the most important consumer measure passed this year by Congress.

A week before adjournment the Senate failed to invoke cloture on a bill, S. 3970, that would have created an independent agency to represent consumer interests before other Federal agencies and the courts. I voted in favor of this bill in the Government Operations Committee, and I also voted to invoke cloture even though I had misgivings concerning certain aspects of the bill.

This measure was reported out of the Government Operations Committee on which I serve. The bill as reported would

have created an independent, three-member agency, to act as an advocate for consumers in proceedings before Federal regulatory agencies and courts. The Consumer Protection Agency would have the authority to question witnesses, challenge testimony, present evidence, and engage in legal fact finding. I supported an unsuccessful attempt in committee to amend the legislation to allow the Consumer Protection Agency only to present "friend of the court" briefs. On October 5, a third attempt to invoke cloture on the Senate floor failed. This killed any likelihood of passage of the legislation during the 92d Congress, and the proposal will have to be reintroduced in the 93d Congress.

VETERANS AFFAIRS

For the Veterans' Affairs Committee 1972 proved to be a good year with several worthwhile and effective pieces of legislation being produced. By cutting the fat from ill-fated bills and shoring up more important ones, we were able to provide better benefits for our veterans.

I cosponsored and supported the Veterans Readjustment Assistance Act which was passed and signed on October 24, 1972. This measure increases monthly GI educational payments for single veterans from $175 to $220; from $205 to $261 for a married veteran, from $230 to $298 for a married veteran with one child, with an extra $18 for each additional child. Although these figures do not match the amounts originally asked for, they do represent a substantial improvement over previously existing benefits.

Realizing that medical services are in dire need all over the country I voted in favor of a bill for the creation and updating of eight new medical schools. The bill also authorized $25 million in Veterans' Administration grants. Although there is no ivory tower solution to this problem, it has long been a known fact that there is a shortage of trained medical personnel and facilities. Therefore, I am hopeful that our effort in this area will improve the situation.

I am greatly encouraged by these and other pertinent bills passed in 1972. I certainly believe that we are taking a significant step forward to provide much needed assistance for veterans.

RECOGNITION OF BANGLADESH

In last year's annual report, I detailed the events which led up to the war between India and Pakistan and the birth of a new nation called Bangladesh, formerly East Pakistan. Senator FRANK CHURCH of Idaho and I had introduced an amendment in a bipartisan effort to cut off both military and economic aid to Pakistan. The Saxbe-Church amendment was accepted as part of the 1972 foreign aid bill.

However, events in Pakistan were proceeding too rapidly—war was near. I traveled to India and Pakistan at the end of last year where I was able to talk to Prime Minister Ghandi and President Yahya Kahn and visited the refugee camps where 10 million refugees lived in abject poverty. When war broke out between these two countries, I was en route from Pakistan to India.

This year, I continued my interest in South Asian affairs. Senator HOLLINGS of South Carolina and I introduced a "sense of the Congress" resolution that the President should recognize the newly formed government of Bangladesh. The President extended diplomatic relations to Bangladesh on April 4, 1972, 13 days after the Hollings-Saxbe resolution unanimously passed the Senate.

THE MAILBAG

Each working week during 1972, I received in excess of 1,500 letters dealing with legislation before Congress or with constituents' individual problems with the Federal Government.

All in all, some 78,600 pieces of correspondence were received and answered during the year 1972. Already in 1973, I have received over 35,000 letters.

This great volume of mail has been gratifying to me, because it is the most direct means constituents have of expressing their feelings on matters of mutual interest.

I want to urge Ohioans to continue to share their views with me, whether or not they agree with me on any given issue. I am dedicated to good representation for Ohio, and letters from constituents give me a good reading of feelings back home.

A large part of my job is to be as helpful as I can to Ohioans who have problems that possibly can be alleviated with my help. I receive thousands of letters each year from persons seeking help in one way or another, and I shall continue to do my best to provide any assistance possible.

I urge all my constituents to keep the mail coming in 1973.

SECTION 235 PROGRAM IN PERSPECTIVE—HOMEOWNERSHIP FOR LOWER INCOME FAMILIES A PROVEN SUCCESS

Mr. PERCY. Mr. President, I must reiterate my concern about the suspension of several major Federal housing programs, most particularly the homeownership program for lower income families. This unilateral move by the Bureau of Management and Budget and the Department of Housing and Urban Development seems unjustifiable.

I want to take this opportunity to put before my colleagues the record of the section 235 homeownership program since the implementation of the 1968 Housing and Urban Development Act. This program gives lower income families the opportunity to own their homes through Federal subsidy payments which lower the interest rate on home mortgages to as little as 1 percent if financial circumstances warrant.

Item: Between 1968 and 1972, the section 235 program accounted for the production of over 400,000 new and rehabilitated units: 640 in 1968; 28,180 in 1969; 117,560 in 1970; 142,840 in 1971; and 153,000 in 1972. In addition, the 235 program made possible the use of over 75,000 existing units for low- and moderate-income families: 3,020 in fiscal 1969; 24,530 in 1970; 11,720 in 1971; 18,000 in 1972; and 20,600 in fiscal 1973.

Item: As of June 30, 1972, the FHA had written mortgage insurance totaling $5,825,938,000 on 330,070 loans made under the homeownership program.

Item: During fiscal year 1974, it is estimated that payemnts to lower the monthly payments of lower income families purchasing their own homes will be made on 425,000 new and rehabilitated 235 units and 78,000 existing 235 units at a cost of $412,000,000.

Item: According to HUD, during 1971 the average acquisition cost for a new 235 property was $18,334. This compares with an average cost of $24,367 under the standard FHA home mortgage insurance program. The median sales price for a new home in the United States in 1971 was $25,200.

Item: According to HUD, during 1971 the average annual income for families assisted under section 235 was $6,341. This compares with an average family income of $14,217 under the standard FHA home mortgage insurance program. These families never could have had "a place of their own" with all that the concept of ownership means within this program.

Item: According to HUD, the average monthly income of a 235 family in 1971 was $432; the family's share of the monthly mortgage payment was $95, while the average monthly subsidy was $79. The average monthly income of a 236 family—low-income rental assistance—was $390; the family paid an average gross rental per month of $108.27.

Item: Initial experience indicates that a significant percentage of households who start receiving these subsidies earn their way out of them through higher incomes. In a recent recertification of incomes for section 235 housing, 8 percent stopped getting any subsidy, 65.8 percent received a reduced subsidy, 13.4 percent had no change, and 20.8 percent received a larger subsidy.

Item: As of December 1971, serious defaults were concentrated in a few areas: 15 jurisdictions had 60 percent of the defaults. Of 67,005 homeownership defaults in these 15 cities, only 10.2 percent were 235, mostly in existing houses, not new ones. In the Metropolitan Chicago area, 6,647 families have purchased homes under 235 since 1968; of these, only 63 are in default, less than 1 percent—a remarkable record.

Item: Most of the highly publicized defaults in cities like Detroit and Philadelphia come from regular market rate FHA insurance guarantees in high risk areas. Likewise, the housing scandals involving excessively high appraisals and purchase costs or high repossession rates of existing older housing in deteriorated central-city neighborhoods are mainly tied to nonsubsidized programs being used under section 233 or 237 terms.

Item: As of June 30, 1972, under the 235 program, a total of 17,128 properties and notes had been acquired by FHA with a total dollar value of $297,377,000. The GAO estimates that at an average loss of $3,835 per acquired property and if procedures are not tightened—as they should be and I have long urged—a 10-percent default rate applied to 1.4 million properties estimated to be insured under 235 5 years hence—by 1978—

could result in a potential loss of $532,000,000.

Item: The GAO estimates that under the 235 program nationwide, as of 1971, about 24 percent of the new houses and about 39 percent of the existing homes had significant defects at closing, solid evidence of exceedingly faulty administration.

Several analyses have been made of the housing subsidy programs, including section 235, by public and private authorities. A careful evaluation leads to the conclusion that the section 235 program has been an effective and efficient tool for meeting our national housing needs and a stabilizing element for our Nation's lower-income families, giving them hope, incentive, and pride.

Charge: The program is too costly; it has not produced results commensurate with the costs to the taxpayer.

We must face the simple truth that there is no way to meet fully either the Nation's physical or financial housing needs without spending approximately at the same rate for direct housing subsidies at which we are now spending. It should be borne in mind, moreover, that the largest single housing subsidy in cost and reach has not been affected by the administration's housing moratorium: the cost to the Treasury—between $5 and $7 billion in fiscal year 1971—of lost revenue for middle- and upper-income homeowners who may deduct mortgage interest and property taxes from their income taxes.

Charge: The program has helped only some families while failing to aid others in the same income range.

According to an acknowledged expert in the field, Dr. Anthony Downs of the Real Estate Research Corp., this inequitable distribution among legally eligible households is the result of meeting physical rather than financial housing needs. Our programs are attempting to provide high quality, newly constructed units which otherwise would be beyond the reach of families with incomes between $4,000 and $8,000. If we opted for the other strategy—providing a cash housing allowance—the expected side effects would include excessive increases in housing prices, failure to deconcentrate poverty in the inner city, and direct most housing subsidies to raising income rather than improving housing quality. Abandoning a Federal role in favor of the operation of the free market would tend to concentrate the poor in older, declining neighborhoods abandoned by the families in higher income brackets moving to the suburbs. It would reverse the progress recently reported by President Nixon.

Charge: The program has resulted in inflated housing costs as well as the unwarranted enrichment of housing intermediaries.

These are probably the costs of trying to engage the private sector in helping to meet society's housing needs. Sufficient incentives must be provided by the public sector to builders and other investors to make housing available to people who cannot afford to pay for it.

Charge: The program has placed some families in homes they could not afford to maintain.

The relatively low default rate seems to counter this criticism. However, in those cases where this has happened, it might have been prevented by the presence of a vigorous homeownership counselling program. Such a program was authorized by the 1968 legislation, but was never implemented by HUD or adequately funded by Congress.

It is appropriate to note the conclusion reached by Dr. Downs about both the 235 and 236 programs:

On balance, we believe that both the Section 235 and Section 236 programs are effective instruments for meeting the key objectives of housing subsidies. . . . . We believe their basic designs are sound, although some modifications can improve them. The major inadequacies so far encountered in the execution of these programs have stemmed mainly from either poor administration by HUD or the inherently higher risks of investing capital in housing for relatively low-income households in relatively deteriorated areas.

We cannot ignore the problems in these programs. We must work to eliminate them. But we must not overlook the fact that as Mr. Downs says:

A preponderant majority of the more than one-half million housing units made available under these programs have been of good quality and have been well received by both their occupants and the surrounding communities.

VOTER REGISTRATION

Mr. McGEE. Mr. President, the maze of different voter registration laws in this Nation, including laws which impose awkward, inconvenient, and sometimes blatantly restrictive requirements for would-be voters, constitutes an unnecessary and indefensible barrier to full participation in our democratic processes.

Last September, in the wake of the Senate's action in shelving the proposed National Voter Registration Act, the Washington Post carried an illuminating article written by Alice Lynn Booth detailing how registration procedures can be and are used to strip the vote from some segments of our society. With legislation again pending to remove these barriers to voting participation, the points raised in the article, which appeared in the Post of September 10, 1972, deserve timely and conscientious consideration by all Members of the Senate. I ask unanimous consent, Mr. President, that Alice Lynn Booth's article be printed in the RECORD.

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

How To Rig Votes Without Buying

(By Alice Lynn Booth)

It is generally believed that manipulating votes went out with the payoffs of old-time political machines. It did not. It is widely thought that making the voting booth inaccessible to the poor is an exclusive weapon of Southern segregationists against blacks. It is not. It is broadly assumed that the 26th Amendment to the Constitution means all those 18 to 21 years old will now be eligible to vote on Nov. 7. They will not.

The fact is that instead of machine payoffs, our more modern politicians have substituted sophisticated use—or non-use—of the voter registration process, which this year will effectively strip the vote from millions of the less advantaged in the North as well as the South—including nearly half of our newly enfranchised working youth. All this will become clearer not on Nov. 7 but about a month earlier, when registration books are closed in most states.

The chief reasons why these millions will lose their right to vote are not very complex. In the absence of a national registration system, city and county election officials are given virtual hegemony over voter sign-ups by the states. Whether appointed or elected, these officials are generally indebted to the party that put them in their jobs. They are not likely to go-out of their way to register voters who might upset party leaders.

In fact, they sometimes go to some lengths to erect barriers to these voters. This was the case in many college towns across the country after the 26th Amendment was ratified. Seeing the new student voters as a threat to the established powers, election officials subjected the youths to excessive interrogations, demanded unusual proof of residency, and initially turned many away. At the University of Illinois at Champaign-Urbana, for example, many students were actually asked where they planned to be buried before they could register to vote. At the University of Maryland at College Park, some officials falsely implied that students who signed up to vote there might have their auto insurance rates raised.

THE REGISTRATION MAZE

The students fought these tactics and usually won, either in court or in rulings by state attorneys general. While only six states permitted students to register at campus addresses in 1971, more than 40 states now treat them like any other residents. (New York, with over 800,000 college students, still does not permit campus registration; a court case on this issue is now pending.) As a result, about 80 per cent of the nation's 6 million college students are likely to be registered this year.

But non-student youth, who outnumber the students by more than 3 to 1, have not been as fortunate. By March 1, according to the Gallup Poll, only 40 per cent were on the rolls. By June 1, only 1 percent more were added. August polls indicate the tally now is about 44 per cent. The registration rate over the past six months suggests that, at most, 53 per cent of potentially eligible working youth will be allowed to vote. That means nearly 9 million of these 19 million youths will lose the ballot, in all likelihood significantly distorting November's election returns.

Registering college students has been a relatively easy task because of their concentration in large groups and their high political awareness. But non-student youths, dispersed among the general population, were thrown into the same pot that traditionally disenfranchised voters have been left to stew in since registration became widespread in the early 1900s to curb ballot box stuffing and other frauds. Less knowledgeable politically and feeling an urban-fed alienation and mistrust of institutions, they confront a registration system which, as the League of Women Voters has put it, is "an administrative maze through which the average citizen must painstakingly grope in order to exercise his fundamental right to the franchise."

Chief among the elements of the maze is the inaccessibility of registration. In the South, there is the continuing problem in rural areas of the county courthouse often being the only place to register. "If you are poor and live 60 miles, round-trip, how do you get there?" remarks John Lewis, whose Voter Education Project conducts registration drives in the South. "Election officials continually refuse to make mobile registration and deputy registrars available, so regis-

tration is left to VEP and other organizations who can provide transportation."

In Stewart County, Ga., Lewis says, the election administrator closed the courthouse on the day of a VEP registration drive, forcing its cancellation. "We have called the Justice Department and sent telegrams, but received no answers to our requests" for federal registrars to go out in mobile vans to sign up voters. Under the Voting Rights Act of 1965, such federal aid can be given when less than 50 per cent of voting age residents in a political subdivision are registered.

But inacessibility is by no means limited to the South. "Normal" registration in Northern areas usually takes place in a central location during working hours. "Expanded" registration often means police stations or libraries—places not generally frequented on a voluntary basis by the less educated, and often consciously avoided. "Branch" registration usually is done at ward polling places and other city buildings or schools. And all of this is often accompanied by little publicity or canvassing of unregistered voters.

The consequences are clear. About the time of this spring's primary elections, for example, the overall registration rate in the cities was about 65 per cent. But in the South End of Boston, only 56 per cent of black and Spanish residents were signed up; in a youth ward near Boston's Beacon Hill, the rate for such potential voters was 51 per cent. In the District of Columbia at the time, registration was 44 per cent lower in one black Northwest ward than in a typical upper-middle-class white area. In Newark, registration figures for largely black wards were about 15 per cent lower than in surrounding white suburbs.

In New York City only last month, 68 per cent of all eligible voters had been signed up—but among 18-to-21-year-olds the rate was only 33 per cent, with the heaviest concentrations of those left out living in lower income areas.

In fact, the case can be made that registration progress in the North is now lagging behind that of some areas in the South. In Dallas County, Ala.—where Selma is the county seat—about 68 per cent of blacks are now registered. This compares with only 2.1 percent in 1964, when black registration in Selma was embroiled in the agonies of intimidation, beatings and literacy tests that even college professors could not pass. The Dallas County black registration rate now exceeds the 58 per cent of all voters in New York City.

"Black people in the South fought for their right to vote and won—they are determined to use it," explains John Lewis.

THE SINCERELY MISGUIDED

The inaccessibility of registration is no chance happening. It stems from several causes. One is the sincerely misguided attitude many election officials still cling to that voting is a privilege, rather than the right it has clearly been established to be. In Milwaukee, for example, election board member Rose Borjanac says: "Voting is a great privilege—you can't just give things to children if you expect them to value anything." The Milwaukee board this year cut back on registration sites, eliminating both a welfare center and a department store. And despite a city attorney's opinion supporting door-to-door registration, plus an offer of volunteers by a coalition of voter registration organizations. Milwaukee will not allow door-to-door registration.

The board chairman there, Lawrence Carlson, reasons: "I don't think we should grab people to register them. Some effort must be made by the people themselves. Those people have wheels. They can go an additional six or seven blocks to a police station or library if they really want to register."

But "those people" the understandably not eager to visit police stations or libraries. And there is no good reason why they should have to. If voting is not a privilege, *eligibility* to vote is certainly not one either. It is an absolute right for almost all citizens 18 or older. It is the government's job to ensure that this right is not taken away or made difficult to exercise.

Many local governments, however, do not see it that way—and not only because some view voting as a gift they are bestowing. Rather, they take pains to register voters when its suits them politically and ignore them when it does not.

"POLITICAL REGISTRATION"

Consider, for example, the case of Boston. In last September's mayoral primary, Thomas Atkins, a black and a former Democratic city councilman, was among incumbent Kevin White's opponents. (Atkins is now State Secretary for Communities under Republican Gov. Francis Sargent.) The other opposition to the moderately liberal White consisted of two other liberals plus conservative Rep. Louise Day Hicks.

Says Atkins: "The mayor made a political judgment concerning registration. If he expanded registration, the net addition to the rolls would be black, Spanish and students—people who would vote disproportionately for me. Therefore, the election office was slow in instituting registration procedures. After the primary, when White faced Hicks alone, the election department instituted extraordinary procedures to register voters. It represents a fairly cynical and manipulative view of the democratic process. I don't want to give the impression that what the mayor did was unique. But that doesn't make it any less immoral."

Then, before both this spring's presidential primary and this month's state primary, the Boston board refused requests for mobile registration and deputy registrars. "We can't afford mobiles," said mayoral aide Ann Lewis. "But with little city halls and other ward sites, we're registering people."

However, Leon Rock, head of Boston's Black Student Union, has a different view. He says that only 500 young people were registered before the books closed for this month's state primary, and that "the real reason they wouldn't expand registration was their fear of alienating Louise Day Hicks. Since she was running against a black for her seat in Congress, they didn't want to increase registration of young people, particularly blacks."

Now, with state primary registration over, the city is again adding money to the election office budget, mysteriously finding that it can expand to mobile registration after all for November's election. "We're going to get a lot of people registered," says Miss Lewis. "I've met with the election office and the ward committeemen who will phone every unregistered voter in the city. We'll make registration as easy as possible."

The Boston election board, consisting of two Democrats and two Republicans, is appointed by the mayor. As Miss Lewis succinctly puts it: "He tell them what he wants them to do and they do it."

Curiously, Miss Lewis, who has also been named state registration chairman for the McGovern presidential campaign, says: "We're not going to concentrate on the campuses. We're encouraging students to register in their home states wherever the vote would be crucial for McGovern." Mobile vans, she says, are to be sent to Boston campuses only on request. Evidently, some McGovern people as well are handy at manipulating registration to suit their candidate's purposes.

NOTHING UNIQUE

The Boston and Milwaukee tales are certainly not unique. In Philadelphia, the distribution of registration sites is determined by ward leaders. Requests by community and student groups for campus and community registration sites have been consistently turned down by election supervisor Jack Welsh, who claims to be "a civil servant who doesn't know a damn thing about politics."

But according to Hardy Williams, a black state assemblyman who was defeated by Frank Rizzo in the 1971 mayoral primary, the political party determines not only where sites are placed but for how many days. "If they want a strong black vote, they'll add sites in the black community, but generally whites are favored."

Mark Bernstein, co-chairman of the Voter Rights Committee at the University of Pennsylvania Law School and a leader of student-controlled Ward 27 in Philadelphia, adds: "An unfavored ward leader suffers when it comes to registration. Our ward generally gets the minimum—three days and three sites."

In Plainfield, N.J., the only place to register is at city hall, which is in an upper-income white community. It is a considerable distance from predominantly black wards, where registration rates range as low as 35 per cent. The Plainfield city council recently vetoed a plan to send mobile vans into these wards. "The present arrangement should satisfy anyone interested in voting," remarks Republican city council member David Rothberg.

He certainly had never spoken to a young black mother who recently talked to a lawyer seeking information for a possible suit against the council action. She receives $210 a month from the welfare department, has a small child to care for, has no car and no history of voting in her family. "I would like to register but I can't get downtown and I don't want to go to that place," she said.

THE CONFUSING LAWS

Similar stories can be found all across the nation. "It's no accident that it's so damn hard to register in this country," says Mike McClister, vice president of Matt Reese Associates, a Washington-based political consulting firm. "A political machine, survives by reproducing its own turnout year after year. It's no wonder they don't want to expand registration."

It is not just the administration of the laws, McClister notes, but confusion among voters about the vague laws themselves. Citing a survey of eligible voters in a Minneapolis suburb, he says a check with registration lists showed that 75 percent of those who had said they were registered actually were not.

Similarly, Ohio state assemblyman Richard Celeste, a Democrat who represents a largely Republican district in the Cleveland area, blames both political parties for maintaining a state registration law that is complex and vague and not used aggressively at the local level. "If the Republican Party has the least interest in expanding voter registration," he remarks, "then the second least interest is held by the Democrats, who fear a broad electorate would shake their power."

What all this adds up to is that voter registration, introduced mainly to curb those who used to cast more than one vote, has reduced the percentage of those eligible to vote at all on Election Day. In most cases this means no vote for the less affluent, the disaffected—those whom the country has been trying to convince since the riots and protests of the past decade to work through the democratic process. If that argument is to be at all persuasive, something must be done to make sure they have an electoral voice. Otherwise, there is no reason for them to listen.

THE ROAD TO REFORM

Registration reformers generally divide along the lines of those who want stronger state action and those urging a uniform federal registration system. Prof. Richard Smolka, director of American University's Institute of Election Administration, for example, advocates uniform registration laws

for each individual state, with strong state control over administration. He believes that election administration must remain at the local level because of the possibility of fraud.

"There are 90,000 local units of government conducting elections, more than 500,000 officials elected to office each year, and an election held every week in this country," he says. "If the purpose of registration is to prevent fraud, then to justify it we must administer voter registration where people know each other. A nationally administered program could cause delay and would simply be impractical."

But Prof. Smolka's prescription would still leave room for less scrupulous state politicians to set the number, place and timing of registration to further their political interests. An issue as fundamental as voting requires federal standards for national elections and federal pressure for state and local races.

A bill introduced in the Senate last year by Sen. Gale McGee of Wyoming comes close to proposing a national system that would significantly reduce our registration ills. For federal elections, the bill would place the Census Bureau in charge of national registration administration. Registration postcards would be mailed to every home, to be sent by voters to local election offices, which would process the forms. To influence state reforms, Washington would offer financial incentives to those states adopting programs similar to its own.

But the McGee bill, which was shelved by the Senate for this year, does not go far enough. It does not sufficiently consider the millions of less advantaged citizens who may have difficulty receiving mail or be less than eager to fill out a government form that arrives in the mail. To ensure the registration of as many citizens as possible, the federal standards would have to include door-to-door registration in precincts where sign-ups fall below, say, 85 per cent. And those states eager for federal financial aid would have to follow this standard for state and local registration.

Only with such a system can we have a chance of fulfilling the promises this country has made.

NATIONAL NUTRITION WEEK: INVEST IN YOURSELF—BUY NUTRITION

Mr. PERCY. Mr. President, this is the third day of National Nutrition Week as proclaimed by the American Dietetic Association. Although the resolution calling for the Presidential proclamation of National Nutrition Week has not yet been approved by the Senate, the American Dietetic Association has gone ahead with its plans for a nationwide observance this week, March 4 through March 10.

There is no doubt that this is an appropriate time to focus national attention on the subject of nutrition. Americans are becoming increasingly conscious of their eating habits, and for a number of reasons. Food prices are soaring; advertisers are proclaiming benefits of fortification of food products with additional vitamins and minerals; the interest of the young in natural and "organic" foods is becoming a fad for Americans of all ages; the subject of "empty calories" in many popular food items is receiving increased publicity; the rage of the 1950's and 1960's for food additives and preservatives to improve the appearance, taste, and shelf life of our food products is meeting with growing skepticism from the public. Never before has there been such a hubbub about what we should and should not eat, and why.

Out of the current clamor over so many aspects of the American diet, a calm voice of reason and fact needs to be heard. The American Dietetic Association and numerous other interested groups across the country provide that voice through their continuing efforts to bring the philosophy and facts of nutrition education to all Americans. The observance of National Nutrition Week, proclaimed by the ADA but celebrated by many other dedicated organizations as well, is an excellent opportunity to bring public interest to bear on factual information about good nutrition. I wish to commend the ADA for its many efforts to promote nationwide observance of National Nutrition Week, and I ask unanimous consent that a statement released by the ADA be printed at this point in the RECORD.

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

STATEMENT

Chicago, Illinois: The American Dietetic Association, with national headquarters at 620 N. Michigan Avenue, is proclaming National Nutrition Week, March 4–10, '73. The 24,000 professional men and women of this 56-year-old group direct their talents, efforts and time to the betterment of the nation's health by striving to improve the nutritional well-being of human beings.

Invest in yourself. Buy nutrition . . . is the theme for '73. The message is short but important. With today's average income at an all time high and more of everyone's income spent on food . . . many remain "poorly" fed at all income levels. Overweight seems to be a problem; and heart disease threatens the lives of middle-age America all too often. Undernourished mothers appear to have more problems at childbirth and their offspring seem more susceptible to disease than the children of well-nourished mothers. Better nutrition won't cure all these health problems but it is a basic step toward prevention.

It is not only the quantity but the quality of food the individual consumes each day that plays a vital role in health and well-being. Foods rich in proteins, vitamins and minerals are available in this country at reasonable cost as compared with similar foodstuffs in other lands. And they are often less expensive than high-calorie foods when comparing cost per ounce. They are the protective foods. Fats and sugars are important too for human nutrition but are needed in much smaller quantities than most Americans consume. Eating a wide variety of foods and balancing the energy from food with the energy used each day will usually provide the calories and nutrients needed by a healthy individual.

PROFESSIONAL STANDARDS REVIEW EXPLAINED

Mr. HANSEN. Mr. President, our distinguished colleague, the senior Senator from Utah (Mr. BENNETT) spoke recently before the National Conference on Professional Standards Review Organizations.

As most of his fellow Senators know, Senator BENNETT has been one of the effective leaders in the drive to enact professional standards review, and his speech in Albuquerque, N. Mex., on February 12, 1973, paid particular attention to what must be done now to properly implement PSRO, especially in light of the fact that the Federal Government is likely—in the next few years—to expand its participation in the health-care field.

It is because of that probable development that I am pleased to call attention to Senator BENNETT'S speech.

His statement provides a clear indication of what has gone before and what needs to be done in the future in this important field and I commend it to my colleagues for their review. With that thought in mind, I ask unanimous consent that his 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:

STATEMENT OF SENATOR WALLACE F. BENNETT

It is a real pleasure for me to visit with you this morning here in friendly Albuquerque—and I do mean friendly in more ways than one. For some four years my son-in-law was Vice President for Research and Development of the Sandia Corporation and during the time he and his family lived in Albuquerque I spent many pleasant days here, days which still bring delightful memories. But, of course, there is another reason why New Mexico is a friendly place to visit because, as you know, New Mexico is the State which has provided national leadership in developing, operating and supporting the PSRO approach. New Mexico has shown how a concept can become a reality, benefitting everyone.

I must say that it is somewhat strange to be here today explaining Professional Standards Review, rather than advocating its passage as legislation. For the last few years, I have been involved in making many speeches in support of PSRO, apart from the time-consuming work involved in its preparation and refinement. Now, we have passed the time of debate and have come to the time of doing.

All too often, we in the Congress, confronted with a major problem, work hard to develop a legislative solution and, once that solution becomes law, assume that the problem has been resolved. Those of you in the audience who administer programs know that that is usually just not the case.

At the outset I want to stress that I have no qualms at all about recommending and supporting legislative changes in PSRO where experience dictates the advisability of change. The attitude is one of pragmatic problem solving and the model we have developed, which was based upon the best information available to us, nonetheless may require subsequent modification. I want to reassure you that there is no inclination on my part to regard PSRO as frozen for all time in its present form on the statute books.

I don't think that this is the place to recite the extensive and sometimes stormy history of the PSRO Amendment. This is the place to consider how PSRO should be properly implemented. It is imperative that PSRO's succeed in view of the anticipated expansion of the Federal role in the financing of health care. Unmet health care needs exist to a substantial extent in this country. No one will deny that. The question the Congress must answer relates to accurately defining those needs and devising appropriate solutions consistent with available Federal resources. The magnitude of the solutions proposed thus far, just in dollars alone, mandates that we prevent a polarization between Government and medicine if we are to have any reasonable chance of having an efficient health care system.

While we may have administrative alternatives with respect to Medicare and Medicaid—for example, Government can delegate

administrative responsibility or assume it itself—there is just no alternative to the use of the practicing physician in the delivery and supervision of medical care. PSRO is structured so as to provide practicing physicians with an opportunity to assume responsibility in publicly accountable fashion for assuring that Medicare and Medicaid services are provided only when medically necessary and in accordance with professional standards, as well as to encourage use of the most economic medically appropriate modes and sites of treatment.

The basic PSRO objective is to assure the quality and appropriateness of care and treatment. All experiences with prototype organizations demonstrate that cost savings inevitably follow as a consequence of effective attainment of that objective.

Now, we are not naive. While it is our hope that all PSROs will succeed, some will undoubtedly fail. But PSRO failures should result only from a lack of will on the part of the physicians to do the job, not because the necessary resources and responsibility were denied to them. We expect progressive and straightforward efforts toward implementation of PSROs. Some organizations already exist, and some of these are already more fully developed than others. Many more need to be started from scratch. The real test of the embryo PSRO will be its willingness to do the job and its capacity to assume progressively greater review responsibility. The test is not whether all review responsibilities can be undertaken within the shortest period of time. Token effort will not be acceptable, but total review will not be immediately required of an applicant.

Obviously, no PSRO can just spring into being full-blown. Each review function—institutional, and out of institution—should be undertaken only when the PSRO is reasonably ready to do so in orderly fashion. The pressure on the PSRO is to do a satisfactory job of assuring quality and appropriateness of care and treatment in each review area undertaking, and not pressure to assume responsibility unrelated to its capacity at a given point in time.

The Federal Government has the general obligation to oversee overall PSRO operations; there is no abdication of ultimate responsibility here. But the Government, while firm in requiring proper performance, should also be sensitive rather than arbitrary.

With respect to PSRO's, the Government itself has taken out an insurance policy. All existing review will continue side-by-side with PSRO review until the Secretary of Health, Education and Welfare is satisfied that a given PSRO has demonstrated its ability to do a better job. In fact, as some of you know, there are additional review requirements in H.R. 1 distinct from PSRO—such as the establishment of Statewide program review teams.

As the PSRO demonstrates its capacity to do an effective job of review in each area of review, the Secretary will be expected to waive all other non-PSRO review otherwise required. During the trial period for a PSRO, its decisions concerning medical necessity would govern despite the fact that a State agency or a Medicare carrier or intermediary arrives at a contrary decision. The purpose of this is two-fold: The establishment of a basis to compare PSRO performance with our other review mechanisms dealing with similar fact situations; and the existence of a definite need to have the buck stop and prompt decisions made with respect to coverage of a patient's care.

The legislation provides that all PSRO costs—including that segment attributable to Medicaid—will be borne by the Federal Government. The President's budget contains substantial funds for implementation of the Professional Standards Review provisions.

There is a variety of administrative structures and flexibility in organization possible with respect to PSROs. However, certain essentials are required with respect to all PSROs. First, they must, during the course of review operation, develop and maintain profiles for each patient, practitioner and provider. Secondly, they have the responsibility of evaluating and determining whether various aspects of existing in-house institutional review procedures are at levels of performance acceptable to the PSRO.

For example, the PSRO might decide that a given hospital's medical admissions are properly reviewed within the hospital, but that there is a problem with elective surgical admissions, and that the PSRO itself will assume responsibility for prior approval of such admissions for Medicare and Medicaid payment purposes. Hopefully, in this illustration, the hospital would be encouraged and assisted by the PSRO in upgrading its internal review to an acceptable level.

Third, there must be broad and rotating physicians participation in the review process on a continuing basis, rather than simple delegation of the responsibility for review to a few doctors. The purpose of this requirement is to avoid what I have termed "incestuous review" but, more importantly, it should give physicians in the community the opportunity to feel that this is their organization and that they are important parts of the process. There is also, of course, the real educational value to be gained by individual physicians who participate in the review process because they will thus get an overview of the way care is practiced in the community as a whole, as well as have an exposure to norms and parameters of care of such practices.

Fourth, PSROs must be organized on local bases of proper size. While there is a requirement that there must be a minimum of 300 physicians in a PSRO, it is expected that the average PSRO will be drawn from 1,000 or more doctors in an area. Again, it is the intent of the law that PSRO's be established at local levels. Thus, a large State, such as Illinois or Ohio, might have as many as ten or more PSRO's, while a State such as New Mexico or Utah might have only a single PSRO covering the entire State.

Fifth, the review organization must employ in its review of care acceptable parameters and norms as checkpoints.

Sixth, data must be maintained in orderly and adequate fashion to facilitate evaluation and comparison of PSRO performance. All of these data, I might add, are to be made public regularly, with the exception of individual patient records. For example, hospital and surgical utilization rates would be regularly available.

With respect to Medicaid, it is expected that the PSRO will be responsible for evaluating and approving the medical necessity and appropriateness of care and services provided to recipients. However, following that determination, the question of eligibility and reimbursement would be handled by the State, except where other arrangements are made by the State with the approval of the Secretary. Similarly, Medicare carriers and intermediaries would, as agents of the Government, handle eligibility of individuals and reimbursement. But, again, the decision concerning medical necessity would be made by the PSRO.

State Medicaid agencies are expected to be consulted by the Secretary during the course of his drafting of overall PSRO regulations. Certainly, the need to assure compatible and timely data processing and professional review of Medicaid services on a cooperative and coordinated basis would dictate such commonsense procedure.

Each State with three or more PSRO's would have a Statewide Council responsible for coordinating and reviewing the activities of local PSRO's. In addition to one physician member from each PSRO and two physician members each from the State Hospital and Medical Associations, the Secretary would appoint four public members knowledgeable in health care. Two of those four members appointed by the Secretary would be selected from nominees of the Governor of the State. Certainly at least one of a Governor's nominees could be anticipated to reflect the State's Medicaid interests.

To some of us, the need for a coordinated Medicare and Medicaid approach in the area of data processing and professional review is an obvious one. First, there is the overlap between the two million old-age assistance recipients who are eligible under both Medicare and Medicaid. Second, and perhaps more important, is the probability that sometime within the next several years Medicaid will be absorbed or supplanted by either some form of national health insurance or an expanded Medicare program. At the very least, I foresee a greater Federal role in Medicaid financing and administration.

A State, of course, would be at liberty to comment upon and offer suggestions to the local PSRO's for improvement in PSRO operations and the Statewide Professional Standards Review Council; the national Professional Standards Review Council and the Secretary. Hopefully, States will offer constructive rather than carping criticism. That last remark was not gratuitous. Conceivably there may be some officials unwilling to yield their review fiefdoms graciously—even though the PSRO does a superior and more acceptable job. On the other hand, I suspect most State officials concerned with review—confronted with effective PSRO's—would heave grateful sighs of relief

A key element in the success of the Professional Standards Review legislation will be the composition, professionalism and energy of the National Professional Standards Review Council. It is vital that those eleven physician-members be of the highest caliber so that practicing physicians throughout the country can have confidence in the professional integrity and judgment of the Council. That group, consisting of practicing physicians of recognized standing and distinction in the review of medical practice, will have important operative, evaluative, and advisory responsibilities.

For example, the National Council has authority to contract with medical specialty organizations for the development and preparation of norms or parameters of care for given diagnoses which would then be made available to local PSRO's for adaptation and usage in area review. This authority is in recognition of the fact that, while we now have much in the way of information concerning norms which can be used as checkpoints of reasonableness, there is still much to be done. In fact, as medical knowledge progresses and changes, norms should be subject to continuing review and modification.

This might be a good point to stress again, that norms of care related to specific diagnoses and ages are nothing more than professionally-established checkpoints beyond or below which it is reasonable to ask an attending physician to explain to his peers the medical necessity and appropriateness of his variation so that Medicare and Medicaid reimbursement may be made. A physician may hospitalize his patient beyond the point which the PSRO believes medically necessary. In that situation where all parties have been notified in advance of the PSRO decision, payment would not be made for the excessive segment of the hospital stay. These PSRO parameters and norms of care are not intended to stifle innovative medicine. The objectives are enhanced quality of care and reasonableness in determining what is allowable for payment under Medicare and Medicaid.

Now, who can be designated as a PSRO? Priority must be given in every case to physician-sponsored organizational applicants. But their simply saying "we want to do it" is not enough. The law states that the Secretary must be satisfied that the organization is "willing to perform and capable of performing in an effective, timely and objective manner and at reasonable cost the duties, functions and activities of a Professional Standards Review Organization . . ." The Secretary is required to make that determination on the basis of both formal and informal information and evaluation. The "informal" aspect was included so that the Secretary would be able to look behind the paper of a proposal at the realities and bona fides of a given applicant. The law does not rely upon an organization's skill in drafting a proposal as the basis for acceptance or non-acceptance. It looks considerably beyond that.

Until January 1, 1976, only qualified physician-sponsored organizations may be designated as PSRO's. However, after that date, in an area where the Secretary is unable to secure the establishment of a physician-sponsored PSRO, he is authorized to contract with other qualified organizations with professional medical competence to function as the PSRO in that area. These could include State or local health departments, an aggregation of hospitals or similar governmental or non-profit organizational structures with professional competence.

In the absence of any qualified physician-sponsored organization and in the absence of any qualified "stepback" organization, such as State or local health departments, failing all else, the Secretry might as a last resort, designate a health insurer to undertake the responsibility to the extent feasible and acceptable.

Inasmuch as this is a working conference on PSRO's, it might be appropriate to offer some suggestions relating to PSRO implementation which, while not in the nature of formal legislative history, might prove helpful.

PSRO's are to be designated on the basis of geographic or medical service areas within a State. In most States, that task should not prove insurmountable. The question has arisen, however, of how to cope with a PSRO medical service area which overlaps State boundaries. My response to that would be to establish the PSRO for the medical service area with appeals and review of that PSRO handled by the Statewide Council in the State in which the preponderance of the area's physicians practice.

A related question concerns PSRO operations in a large metropolitan area involving two or more States each with sizable numbers of physicians. For illustrative purposes, let's take the Washington, D.C. metropolitan area. There I visualize PSRO's in Northern Virginia, suburban Maryland and the District itself. However, all three PSRO's could share a central data bank in which patient, practitioner and provider profiles would be maintained. The separate PSRO's would have computer terminals feeding into and extracting from the data bank. This approach solves the problem of physicians who have both urban and suburban offices and of patients who cross PSRO boundaries in getting necessary medical care. Each PSRO, however, would retain its responsibility for approving the medical necessity and appropriateness of care provided under Medicare and Medicaid within its geographical boundaries.

I will offer a suggested approach to one other requirement of the law—the statutory requirement that all patient profiles be regularly reviewed to assure that overall care is consistent with good medical practice. A large urban PSRO may have many thousands of patient profiles to review. Even though many physicians would be available as reviewers (and we expect to pay for their review time) the task would be formidable if ever profile were looked at on an undifferentiated basis. Therefore, I would expect that the profiles of patients receiving nominal or infrequent service might be reviewed possibly not more than annually while greater users of services—by diagnosis or frequency—would be evaluated more often.

The Finance Committee has always taken its legislative oversight responsibilities seriously. I like to think that with PSRO we exhibited foresight to the extent of minimizing future oversight activities with respect to PSRO. That, of course, may just be wishful thinking. In any event, we stand ready to applaud and support effective and forthright implementation of the legislation and, at the same time, equally ready to move in the event of faltering and token efforts at administration and operation.

Ladies and gentlemen, as far as Professional Standards Review is concerned, the Congress means business. Your help will go a long way toward achieving our common goals of assuring that we provide medically necessary care of proper quality under the Medicare and Medicaid programs.

FREEDOM

Mr. MUSKIE. Mr. President, as our prisoners of war return from Vietnam, we are all especially conscious of the meaning of freedom. I recently had the pleasure of being visited in my office by a group from the State of Maine attending the annual dinner of the Veterans of Foreign Wars in Washington. One of the group, Ruth Ellen Comber of Jackson, Maine, gave me a short essay entitled "Responsibility to Freedom."

Mr. President, I wish to share with my colleagues her thoughts about freedom and ask unanimous consent that her letter be printed in the RECORD at this time.

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

MY RESPONSIBILITY TO FREEDOM
(By Ruth Ellen Comber)

Freedom is a great privilege and we must work unitedly to be responsible for it. Benjamin Franklin, John Adams, and Thomas Jefferson were the key men in the signing of the "Declaration of Independence," on July 4th, 1776. On that day, these men and many like them, were being responsible for freedom by insuring its existence in our newly formed country. But this document and the ideals it stands for were not conceived by one man. It was created by an assembly of men working together as a unit. When you think of how hard these men worked to *bring* freedom to our nation, you would think that we could work just as hard to *keep* it here. One of the most important lines of the "Declaration of Independence" is the one which states that all men are created equal. This means that a man should hold no prejudice against his fellow men. There is no set class system in America where a man, because of his heritage, is in any better position to rule or be ruled, than anyone else.

Because we all *are* equal, we should all share equally in the benefits obtained from freedom and the responsibilities that accompany it. One person alone could not begin to spread the knowledge and results of liberty throughout the entire country. One person could not even hope to reach every man, woman, and child living in this country. It takes a joint effort by every one of us, each in his own way.

We need politicians to serve the people as representatives to Congress and the Senate. We need them to work *for* and *with* us in making the laws and preserving freedom for all.

We need lawyers to fight for justice and truth in the Courtrooms of our land. We need these professionals to insure freedom of the individual and to intepret the laws.

We need policemen to enforce the laws that were made to protect us.

But, most important of all, we need those people whom the laws were made *for*. We need these concerned citizens to keep our country at its high level; never letting it falter for a moment.

My individual responsibility is to be proud of my heritage and of my country. I should not take any one of these duties for granted. When I become of age, I should be an informed voter and a concerned voter. The political *offices* should be my concern, and they should be upheld to the highest degree.

To explain further my responsibility to freedom, I would like to refer to the song, "You've got a Friend." The first stanza of this song is: "When you're down and troubled and you need some love and care, and nothing . . . nothing is going right; Close your eyes and think of me and soon I will be there, to brighten up ever your darkest night." This applies to freedom and its need for my assistance. I try to project myself into the song and think of freedom calling to me for help in finding stability in our society.

The beginning lines of the chorus are: "You just call out my name, and you know wherever I am, I'll come running to see you again." Of course freedom is not capable of caling out my name. But through some political, social or religious strife within this democracy, I should be aware that freedom is calling silently, for my help in solving the problems that could hinder its safety. The last few words of the chorus are: "Winter, Spring, Summer, or Fall, all you have to do is call, and I'll be there. You've got a friend." These lines reveal that no matter what the season is, I should always be ready to aid freedom in any way possible. Whether it is to examine closely a new amendment to make sure it benefits *all* the people and not just a minor few. Or if it is to learn about America's foreign policy to certify that it is fostering brotherhood with other nations. I should be willing to work for freedom at all times.

The last lyrics of the song are: "Now isn't it good to know that you've got a friend when people can be so cold? They'll hurt you, yes, and desert you, and take your soul if you let them. Oh, but don't you let them."

This means, to me, that there is a struggle involved in protecting and preserving something as necessary to the happiness of an individual, as freedom. It isn't easy. But, then, nothing worthwhile ever is.

SPEECH OF SENATOR CURTIS AT LINCOLN DAY GATHERING IN COEUR D'ALENE, IDAHO

Mr. McCLURE. Mr. President, our colleague from Nebraska (Mr. CURTIS) recently addressed a Lincoln Day gathering in Coeur d'Alene, Idaho, and delivered a speech that received nationwide attention.

It is the Senator's contention that the recent political campaign failed to address itself to the real concerns of middle America in any substantive way. His criticisms are directed at both political parties and are quite thought provoking. They merit the attention of every Member of this body who is concerned about the directions this Congress should be taking, and I ask that Senator CURTIS' speech in Coeur d'Alene be included in the RECORD at this point.

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

SPEECH OF SENATOR CARL T. CURTIS

Mr. Chairman and my fellow Americans, we are here to celebrate the birthday of the immortal Abraham Lincoln, our first Republican President. As long as there are free men on earth, the name of Lincoln will be honored. He led this country through a great war and saved this Union of sovereign states. We could spend the entire evening enumerating his virtues, his defense of individual liberty, thrift, and hard work. This we should do. I believe, however, that the greatest honor that we can bestow upon Abraham Lincoln and all of our revered forefathers is to make a success of free government in our time.

First let me say that I am so happy that Richard Nixon is President of the United States. Our country is fortunate that a man of his caliber was elected to the Presidency in 1968 and reelected in 1972. He will go down in history as a President of great accomplishment, the unquestioned leader of the free world, and a peacemaker.

When Richard Nixon talks to the American people about a full generation of peace, those who know him best know that that is the overriding passion of his Quaker heart. When President Nixon was sworn in as President in 1969, the Vietnam war had dragged on and on for seven years or more. There was no end in sight and our casualties were enormous. The foremost hope of the American people was for peace.

President Nixon put first things first. Peace with honor has come. Americans are no longer being killed. Our prisoners of war are being returned and those men listed as missing in action who are still alive are being brought back. A grateful people will not and must not forget their great debt to President Richard Milhous Nixon—the peacemaker.

In my opinion, the greatest crisis we face at the present time involves the financial integrity of the United States. It involves the question of spending, the enlargement of government, and mounting deficits. I believe that the vast majority of the American people laud President Nixon for his courageous and forthright stand to curb excessive spending. There is much more to be done and there is a responsibility on the Congress and everyone involved, but I am indeed grateful for the stand the President has taken.

I am most happy to be in the State of Idaho. I am delighted that Mrs. Curtis and I could make the trip, and that we can have the opportunity of visiting your lovely City of Coeur D'Alene. Senator Len Jordan, who chose to retire, and his wife, Grace, were dear friends. Len and I had the opportunity of serving together on the Senate Committee on Finance. He was one of the Senate's stalwarts. There are many Idahoans who come to mind as I think back over my years of service. I was sworn in as a young Congressman at the same time as Henry Dworshak was sworn into the House of Representatives. We remained friends through the years.

Idaho is keeping up its fine tradition for sending stalwarts to Washington. Senator McClure, a young man of brilliance and integrity, obtained valuable experience as a House member and he has already established himself in a position of respect as a good Senator who can be counted upon. I am honored to serve with him and I wish we had more like him.

The whole country took note of the election of your aggressive and outstanding new Congressman Steve Symms. I think that his slogan, "Take a bit out of government," could well be emulated by every Member of Congress. His rugged individualism and his sterling Americanism are to be commended. I particularly have taken note of him because I, too, went to the House of Representatives at age 33, a little over 34 years ago. I predict great things for him in Washington.

If we are to make a success of self-government, we as a matter of necessity must make a success of the Republican Party. The Republican Party must in truth and in fact become the majority party in America. We must bring together a coalition of individuals who share some basic fundamental beliefs and who will constitute a majority for the purpose of electing both a Congress and a President. It has been done in the past.

President Franklin Delano Roosevelt put together a coalition of a majorty of U.S. voters. That same coalition held together through the crisis of World War II and right on up to the election of President Eisenhower.

President Eisenhower was a great military leader and one of our most popular Presidents, but he was not particularly party-oriented. Since he and his aides lacked insight into the formation of a Republican majority, the party missed a historic opportunity to form a solid coalition among American voters during the Eisenhower years.

Then came the Kennedy era, followed by the landslide election of President Johnson in 1964. By 1966, however, the American voter began to react to the excesses of the Great Society and the Republicans made a comeback.

In 1968, the Party nominated Richard Nixon and, because of chaos among the Democrats, Nixon seemed to enjoy a wide lead over Vice President Humphrey. But that lead evaporated in the wake of a rather weak and inarticulate campaign by the Republicans and a spirited campaign by Vice President Humphrey. As a result, Mr. Nixon was only narrowly elected. More important, there were only marginal gains in the Congress, where Party workers had been hopeful of substantial ones.

Then came 1970. Again, even though it was an off-year election, it looked like the Republicans were going to gain significantly, at least in the Senate. A Washington-directed campaign, which was not sensitive to local situations, soon turned potentially large gains into small gains in the Senate and losses in the House.

Consequently, 1972 was looked to as the golden year for the Republicans. The Democrats nominated a candidate who was rejected by large segments of their own party. The Republicans had the Presidency and all the power which goes with it. The early signs pointed to a Republican victory of proportions not seen since the election of Herbert Hoover in 1928. When the votes were counted, the President had won a landslide victory alright. But the Republican Party lost strength in the Senate and barely gained in the House.

As a matter of fact, President Nixon made two kinds of political history in the 1972 election. First, he won in an unprecedented 49 States. Second, he became the first President to win by a landslide without the Presidential election having a positive impact for the President's party in Congress. It became apparent early that the voters just wouldn't buy McGovern.

Now, it is hard to argue with the kind of landslide Mr. Nixon achieved. However, I serve in the United States Senate where conditions favoring sound thinking and conservative government have actually deteriorated since the election.

Consequently, I believe some observations about this election are in order. As we build toward 1974 and 1976, we must attempt to forge a new Republican majority.

It is my contention that, despite the landslide victory of President Nixon, the Republican Party as a whole failed in the last general election. Why? Because we failed to pay significant attention to the middle class voter; we failed to identify with the largest single segment of the voting population.

The modern tradition of the Democrat party has been founded on certain nineteenth century Socialist notions, the most notable of which has been the concept that the Democrat Party is the "party of the people." Well, if the Democrats are the "party of the people," then the Republicans are left with the identity as the "party of big business" and the "party of special interests."

While there is no reality in this concept of the "party of the people," it has served the Democrats well by creating a polarity between business and "the people."

Meanwhile, the Republicans have compounded the problem because they have failed to articulate in a positive way the case for Republican identification with the middle class.

President Nixon made a few statements which worked toward middle-class identification in 1972, but only because Senator McGovern advocated so many programs which were openly anti-middle class.

Beyond this perfunctory nod in their direction, the real concerns of the middle class were never properly addressed in the Presidential campaign. Since the Presidential campaign was directed separately from the campaigns of all other Republican candidates for public office, there was no single Republican theme. The results, overall, was certainly a deep lack of comprehension as to the real concerns of the American people.

Now, lest anyone draw the wrong conclusions from these remarks, I do not blame President Nixon personally for this situation. Any President who has carried the weight of Vietnam and the Middle East and the thousand and one other problems that Mr. Nixon carries on his shoulders cannot be expected to formulate strategy for Congressional campaigns.

The President, however, is supposed to have some very bright and highly paid advisors. While I realize that some of these advisors have yet to extend diplomatic relations to the Congress, I understand that a few of them were responsible for formulating the Congressional campaign strategy. I suppose it is asking a bit too much for some former highly paid advertising executives to understand the concerns of middle-class Americans.

Still, despite the doubts raised by the fragmented 1972 campaign, I do believe that a majority of Congressmen and Senators, especially those who themselves campaigned during 1972, understand very well what the people are thinking.

The team of Scammon and Wattenberg identified some of the "social issues" which disturb the average middle-class voter. These include crime, permissiveness, drugs, etc. These *are* real concerns and, therefore, real issues. But Scammon and Wattenberg, in my opinion, barely scratched the surface.

There are a number of broader concerns which have come to bother the average voter. Perhaps most significant is the ever-increasing tax load which politicians have inflicted on the voter at all levels of government.

The specific concerns of these taxpayers are innumerable. The American middle class is tired of working to help pay for the "voluntary poor." By that I mean they resent their tax dollars going for food stamps for hippies and strikers. The American middle class is fed up with schemes for welfare reform which would add millions to the relief rolls by giving them a guaranteed annual income. And, by the way, President Nixon is to be commended for dropping the guaranteed annual income plan from his budget this year.

I am proud to have been one of those Republicans on the Finance Committee who for two successive Congresses stood up and said "NO" to this kind of nonsense.

The American middle class wants tax reform if it is true tax reform. If our tax laws are to require that every individual and

every corporation must pay his or its just share and no more, our efforts at tax reform must be constant and not sporadic. The American middle class is not served by demagogic proposals in the name of tax reform which dissipate the revenue, discourage giving and philanthropy, remove incentives which provide jobs, and shift the burdens of taxes for political purposes. The Tax Reform Act of 1969 contained all of these evils. Had it not been passed we would not have the current deficit. Had the 1969 so-called tax reform not been passed, we would be collecting this year nearly 26 billion dollars more in revenue. This gigantic loss in revenue is creating the deficit, yet this bill did very, very little, if anything, for the great middle class in America. It was a politically inspired, vote getting approach.

Another concern of the average voter is the failure of government to perform. People are disillusioned because government has tried to do so many things that it cannot do. Look at the problems, for example, that we have in connection with the mail service. The false notion that big sprawling bureaucratic government can solve all problems is not only bankrupting our country, but it is a disillusionment and a sham.

One of the first responsibilities of government is the establishment of justice. Equal treatment and justice should be applied to all of our people. The middle class voter in our land with good cause raises questions as to why one citizen has the payments on his house subsidized with tax money by $30, $40, or $50 monthly, while his neighbor across the street in a similar circumstance with the same income pays the full cost of acquiring a home.

The great middle class wants all voters to have a voice in their government. That is what self-government is all about, yet the Congress has passed so many Federal programs which run in perpetuity that only 30 percent of the Federal budget constitutes what can be called controllable items. Many of these controllable items involve needed and necessary functions of government. Consequently, the voters of America can no longer exercise their God-given right to elect a Congress and a President committed to a drastic reduction in the size of our government, because the country is already saddled with programs which must be carried out or commitments which have been made to individuals, states, and subdivisions.

America is suffering from the tyranny of big government. This is a type of tyranny, the chains of which are harder to break than the tyranny imposed by a foreign monarch. Yet this trend must be reversed.

The Republican Party should proclaim, and adhere to, the doctrine that those citizens who are neither ill, nor aged, nor are the victims of great disaster do not need a "big brother government" to make all their decisions and supply all their wants. It is my opinion that a majority of the American voters would rally around such a cause.

The history of the last few years and the last few months has proven that the government does not know best. Let us look at the problem of pollution and our environment. Of course, we must clean up America. Our countryside and our streams and our air cannot be receptacles of all the trash that can be accumulated without injury to our people. Yet it is time that common sense prevailed. It is time that knowledge displaced emotionalism. To stop all activity is not the answer, whether it be the building of a pipeline, a nuclear power plant, or the continued use of something to destroy coyotes. We can improve our environment through an advance in technology based upon an expanding and growing economy and not a stagnant, stand-still economy. It is frightening to learn that the government of the United States is banning the use of DDT, and has approved as a substitute the use of methyl parathion, which is much more dangerous.

The great middle class in America wants to see the United States continue to be a first rate nation. The American voters are alarmed over the fact that in too many situations the United States is no longer competitive in the world markets. And this is a challenge for government, for business, and for our union leaders.

Governmental policies must be followed that give to American business an equal chance with foreign business. Businessmen must be venturesome and creative and courageous, but they can't go it alone. They must move within a framework of government which is conducive to such a course. In addition to this, our country needs a new statesmanship in its labor leadership. We need a type of union statesmanship which is willing to have labor join hands with government and management in a program of production that does make American products competitive around the world. This is the long range view. It will bring about a greater number of American jobs and more money in real wages in the long run. The maintenance of our country as a first rate nation places a responsibility on all, and I believe that a majority of the voters of America will follow that political party which will chart such a course.

If the Republican Party is to be the party of the majority, it must proclaim the virtues of patriotism at all times and in all places. I am convinced that the vast majority of the American voters love their country. They not only want it to be preserved but if they are given all the facts, they are willing to make any sacrifice in the public good. The Republican Party should exalt the virtues of hard work, self-reliance, and lack of dependence upon the government in Washington. Such a program calls for both courage and bravery, but I believe that it will appeal to a voting majority of our country. America is a great land because she has had brave people.

In our national anthem we sing about the land of the free and the home of the brave. I would like to leave this one thought with you—when we are no longer the home of the brave, we will not be the land of the free.

PRESERVATION OF THE BIG CYPRESS NATIONAL WATER RESERVE

Mr. GURNEY. Mr. President, the preservation of the Big Cypress National Water Reserve has been a long sought after goal, not only by some of us here in Congress but also by conservation groups and the majority of the citizens of Florida. This concern has been demonstrated in many ways, but none so effective than by the direct donation of land owned within the watershed area. Mr. President, I have received a copy of a resolution adopted by the State of Florida Board of Trustees of the Internal Improvement Trust Fund, which has the responsibility of administering all State-owned lands. This resolution, adopted on February 6, 1973, honors and commends Mrs. Sandra Kay Hamilton of Battle Creek, Mich., for her generosity and deep concern in donating to the State of Florida 30 acres of land within the Big Cypress acquisition area.

I would like to take this opportunity to personally commend Mrs. Hamilton for her actions and I ask that this resolution be printed in the RECORD so all Senators might be aware of the strong sentiment in favor of Federal acquisition of Big Cypress Swamp. Not only is Big Cypress an area of intrinsic natural beauty but its preservation is essential to the maintenance of an adequate fresh water supply for the people of south Florida. We cannot afford to let it go unprotected.

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

STATE OF FLORIDA BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND,
Tallahassee, Fla., February 15, 1973.

Hon. EDWARD J. GURNEY,
U.S. Senator, New Senate Office Building, Washington, D.C.

DEAR SENATOR GURNEY: Enclosed is a copy of a resolution executed by the members of the Board of Trustees of the Internal Improvement Trust Fund on the occasion of their formal acceptance of thirty acres of land in the Big Cypress watershed donated to the State by Mrs. Sandra Kay Hamilton.

The Board directed that a copy of the resolution be brought to the attention of each member of the Congress of the United States from Florida as an indication of the public interest and concern for the future of the Big Cypress watershed.

Sincerely.

JOEL KUPERBERG,
Executive Director.

RESOLUTION

Whereas the Big Cypress Watershed is a unique and ecologically priceless natural resource of the State of Florida; and

Whereas the State of Florida is profoundly concerned and vitally interested in the protection and preservation of this natural resource; and

Whereas this priceless heritage was not recognized as such and was permitted to fall into private ownership over the course of many years; and

Whereas members of the United States Congress have expressed concern for the future of this natural resource and an intent on the part of the Congress to acquire the heartlands of the Big Cypress Watershed; and

Whereas, in matters of concern, often a dedicated and conscientious citizen will furnish the spark which lights the torch for others to carry in the accomplishment of deeds redounding to the benefit of generations to follow; and

Whereas Mrs. Sandra Kay Hamilton of Battle Creek, Michigan, has demonstrated her willingness to be such a person by donating to the State of Florida thirty acres of land owned by her within the Big Cypress acquisition area; and

Whereas the Trustees of the Internal Improvement Trust Fund wish to publicly acknowledge Mrs. Hamilton's philanthropy and her unselfish action, as well as to express to her the appreciation of the State of Florida for having set an example for others to follow: Therefore be it

Resolved by the Board of Trustees of the Internal Improvement Trust Fund, that the thanks of the Board on behalf of the State of Florida, is hereby expressed to Mrs. Sandra Kay Hamilton for her generous donation to this state; and be it

Resolved further, That this resolution shall be spread upon the minutes of this meeting and a copy hereof be suitably enrolled, signed and sealed and presented to Mrs. Hamilton, and a copy be directed to the attention of each member of the Congress of the United States from Florida as an indication of the public interest and concern for the future of the Big Cypress Watershed as part of the public domain in perpetuity.

NO FUNDS FOR THE WEST FRONT UNTIL THE CAPITOL COMPLEX IS FREE OF ARCHITECTURAL BARRIERS

Mr. RANDOLPH. Mr. President, I read with interest that the Commission for the Extension of the U.S. Capitol has directed George M. White, Architect of

the Capitol, to request $58 million to extend the west front of the Capitol. The proposed addition would include office space and facilities to serve the public.

On February 21, Senator STAFFORD, myself, and staff representing members of the Subcommittee on the Handicapped and the Special Committee on the Aging met with Mr. White to express our concern about architectural barriers in the Capitol and the Senate and House office buildings. This conference was very productive: It was agreed that Mr. White would correct urgent problems which could be solved immediately and then secure architectural consulting assistance for long-range planning and work.

It is my opinion that not a penny should be spent on the west front project until architectural barriers have been eliminated wherever possible within the Capitol complex. Furthermore, any proposed addition should be so carefully and throughtfully planned that problems will not arise for handicapped persons as they enter or move about in that area.

Recently, there has been a good deal of discussion about priorities. It seems to me that remodeling the Capitol to accommodate blind, motor impaired, other handicapped citizens and the elderly should have a higher priority than more office space and cafeterias, as much as they may be needed. Our national buildings should be accessible to all the people, Mr. President, not just nonhandicapped persons. This deserves to be our most urgent task in considering developmental or reconstruction programs for the Capitol complex.

Mr. STAFFORD. Mr. President, I would like to associate myself with the remarks of the Senator from West Virginia, the chairman of the Subcommittee on the Handicapped, about the need for a speedy removal of architectural barriers in our Nation's Capitol and surrounding office buildings.

The Architectural Barriers Act of 1968 provided a strong expression of the Congress intent to eliminate architectural barriers for handicapped and older individuals. This bill obligated the Federal Government to vigorously seek ways in which all buildings can be made accessible to handicapped individuals.

Mr. President, our historic Capitol and the surrounding buildings should serve as a model of accessibility. Indeed, openness of our Capitol should have the highest of all priorities.

If we in Congress believe in the laws that we pass, then we should be the first to see that they are implemented in our own environment. I would like to remind my colleagues that many of their handicapped or aged constituents cannot visit their Nation's Capitol or the offices of their representatives because they cannot get around this complex alone.

I think it is time the Congress responded vigorously to the right of the handicapped individuals to enter their Capitol.

TRIBUTE TO E. K. GAYLORD

Mr. BARTLETT. Mr. President, the entire State of Oklahoma today pays tribute to one of its most respected citizens, Mr. E. K. Gaylord, as he celebrates his 100th birthday. A pioneer in the truest sense, both in Oklahoma Territory and in the world of journalism, Mr. Gaylord has carved out a legacy in the minds and hearts of every Oklahoma citizen and that legacy is to look to the future, to be prepared and concerned for the days ahead.

E. K. Gaylord is a man among men—a man of religious conviction, moral persuasion, determination, energy and integrity. He is a gentle man—a man of compassion, understanding, patriotism, and love of his fellow man and Oklahoma. Mr. Gaylord is a man's man—a gentle man—a gentleman.

If some future Izaak Walton of journalism writes a book on "The Complete Editor," he would be wise to consider E. K. Gaylord, who is celebrating his 100th birthday today by putting in a full workday and sandwiching in a speech to the Oklahoma Legislature.

There are writing editors, editing editors, city-building editors, and empire-building editors—and "E. K." at 100 years young still answers all these descriptions.

There is a strange thing about that "E. K." He is popularly known by those initials around his adopted city which he has helped to develop from a mud-streeted frontier town to a booming metropolis of the Southwest.

But around his newspaper plant he is know—always—as Mr. Gaylord. Even his son who is an executive vice president of the Oklahoma Publishing Co., frequently refers to his father as Mr. Gaylord.

No recital of past accomplishments really can tell the story of Mr. Gaylord. The reason is that he is so vitally a man of the present and the future. For Mr. Gaylord, anticipating and preparing for the future is what life today is all about.

Everything he does and everything he says bears out his preoccupation with plans and possibilities for the future. He continually reminds others:

> Now, we don't want to build just for five or ten years ahead. Make it big enough for twenty or thirty, at least.

By the time he was 11, Mr. Gaylord had a job on a truck farm, picking strawberries. At 12, he left for a job in a secondhand store. By the time he was 15, he had demonstrated so much ability that a businessman offered to furnish him the money to buy out the owner and go into business for himself. But the future publisher declined, saying he intended to get a college education, whether it benefited him financially or not.

After 2 or 3 years working on fruit farms, for a railroad and coal company, he set off for Colorado College with $17 in his pocket. According to Mr. Gaylord, the fare back to Grand Junction was over $19, so "I know I was there to stay." His job as houseman and gardener at his boardinghouse helped and he managed meanwhile, to be president of the college YMCA, a member of the college debating club and both editor and business manager of the college paper.

While he was a college junior, he and his brother, Lewis, had a chance to buy controlling interest in the Colorado Springs Telegram for $12,000. A Missouri banker, attracted by young Gaylord's ambition and character, loaned him the necessary $6,000 and he was in the newspaper business for the first time.

The partnership later sold the Telegraph and his brother urged him to join a new venture in a paper in St. Joseph, Mo. Mr. Gaylord worked there for a time as business manager, but was not totally satisfied with the opportunity. He then moved to Oklahoma City.

When he arrived in Oklahoma Territory in 1903 he bought into what he has described as a "terribly inadequate" daily paper. It was published in a 25-foot-wide storefront office, with two linotypes and a flatbed press. He was to run the business side and one of his partners was to be the editor.

Very quickly, Mr. Gaylord's innate respect for newspaper work exerted itself and the dynamic spirit of the Daily Oklahoman was born.

He had been on the job only about a week when a soldier was killed in a brawl on "Battle Row." He knew the news staff was aware of the shooting so he was startled the next morning when he went through the paper, page by page and found no story.

"I got madder and madder," he recalls. The showdown came quickly. He marched into the office and learned the story had been suppressed at the request of the town's business leaders because "it would look bad for the city." Pointing out that papers in Dallas and Wichita had carried the story, he emphasized the ridiculousness of an Oklahoma City paper holding such a story. That afternoon, there was another killing and the next morning that story, needless to say, and the one about the previous day's shooting were duly reported.

The little staff soon learned the new man meant business. He contracted for Associated Press Service and, on an educated hunch, hired a telegrapher to work on Sundays and alerted his staff to be on the job. Most papers did not print on Mondays then and, the very next Sunday, he scooped the territory. The Russo-Japanese War started and the Daily Oklahoman's "Extra" was the only paper carrying the story between Dallas and Kansas City. He sent hundreds of papers and his own newsboys into cities as far away as Wichita, to the chagrin of many publishers caught napping. The feat put the Daily Oklahoman on the newspaper map.

To this day, the first tip on a good story is as likely to come from Mr. Gaylord as from anywhere. When his staff falls down on the job, it is his quiet but unmistakable disapproval that comes through. He knows news and what should be done with it. The sight of him walking into the newsroom, paper in hand, to point out some error that only he has caught—or to ask the key question reporters and editors have overlooked—is an unforgettable experience for beginners and veterans alike.

As one oldtimer says, "I think he does it with radar."

Recalling that "inadequate" paper he started with, Mr. Gaylord says:

> I was ambitious to make it the biggest and best newspaper in the state.

He was not long in setting himself on a course that would do the job.

The Oklahoman played a key role in Oklahoma achieving statehood in 1907, when it successfully pushed for Indian Territory to be admitted as one State and not split into two as some proposed. Before long, he led another battle. Guthrie had been named the State capital, but Oklahoma City was growing faster and other cities also had intentions of becoming the State capital. Oklahoma City won the balloting contest, hands down.

In 1916 the firm bought an evening paper at a sheriff's auction, the Oklahoma City Times.

By 1918 the young Gaylord already had been president of his city's chamber of commerce and had been placed in complete charge of both papers.

In 1928 it was Mr. Gaylord's decision that put the company into radio, with station WKY, the State's first.

When the railroads started withdrawing trains, making newspaper deliveries difficult, he started his own truck fleet; Mistletoe Express Service, which now services five States.

In 1949 the company brought television to Oklahoma with WKY–TV, which in 1954 became the Nation's first independent station with live color programs. TV Stations in Tampa-St. Petersburg and Dallas-Fort Worth were added later, followed by purchase of UHF channels in Houston and Milwaukee.

Ideas for further expansion and improvement always have an eager listener in E. K. Gaylord, editor, publisher, and president—that is if anyone can beat him to having an idea. His ambition to make 1903's Oklahoman into the "biggest and best in the State" has produced the Southwest's largest newspaper enterprise, but he is still looking for new worlds to conquer.

Ten years ago, Mr. Gaylord's staff celebrated appropriately by presenting him with the first newspaper ever printed from computer-justified tape. With interruptions only for reprograming and improvements, the papers have been printing this way ever since. Mr. Gaylord's reaction:

We've only scratched the surface of these new methods; we're in the primitive stage.

In the newspaper world, he has done it all—from being a director of the Associated Press to being the key figure in establishing the South's first newsprint plant, Southland Paper Mills, Inc. at Lufkin, Tex. Fighting for pulp concessions, stock sales and contracts for the paper to be produced, he led the effort that gave a new look to newspaper economy in the region.

At home, every civic enterprise, in helping his city grow through unprecedented steps to attract industry, in private philanthropy, in support of education, in encouraging the arts and cultural activities, his role has been one of leadership—and this investment has been going on for more than 60 years.

While still Governor of Oklahoma, I asked Mr. Gaylord for his support for an Okie program, designed to make a good word out of a bad one. Because he had lived in Oklahoma throughout the Dust Bowl era, I thought he might not support the idea. Without hesitation, he said he would support such an effort and has been a tremendous help to Oklahoma Key to Intelligence and Enterprise ever since.

He and Mrs. Gaylord—a partnership that goes back to 1914—have special interest in the YMCA and YWCA. His interest stems from college days and hers from a premarriage career as a YW executive.

His publicly stated editorial philosophy is simple:

The Oklahoma Publishing Company always takes a stand as a leader. It never has opposed a bond issue nor any other worthwhile project for the growth and development of the city or state.

A longtime newspaper associate once wrote:

In my opinion, he has never used the tremendous power within his grasp selfishly; he has never attempted to reward a friend or punish an enemy through his newspaper's editorial policies.

When he speaks out sharply, the motivation stems from his conviction of what is right and best for his city, State, and country. While his readers often disagree, there are few who doubt his sincerity and many who respect his independence and forthrightness—even while disagreeing.

Mr. Gaylord answers the description I once read of a good citizen:

He has put more into his community than he has taken from it.

He often cites a line that represents another of his personal convictions:

No man has the right to be less of a man than he can be.

Few men have come closer to realizing that ideal than E. K. Gaylord.

Mr. Gaylord's inner spirit as well as his every day activity is motivated by an undying faith in the hope and aspiration for the future. I am proud to be able to call him my friend. I am proud to be able to call him a fellow Okie. I am proud to be able to call him a fellow American.

NATIONAL FORESTS

Mr. McCLURE. Mr. President, the 55th Congress on June 4, 1897, passed the law establishing the national forests. A portion of the act provides:

No public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States;

At present, our national forests are being asked to provide ever increasing amounts of goods and services under severe budget restrictions. Even such basic functions as planting and tree cultural work are now severely curtailed. Current Forest Service studies on undeveloped areas leave uncertain the productive forest land base that can be counted upon for harvest. Restrictive designations proposed for forest lands have not been fully assessed for the impact on sustained yield levels.

I am receiving numerous expressions of concern over the present lumber supply situation with regard to price and availability. My distinguished colleague from Oregon, Senator PACKWOOD, last week introduced legislation to curtail log exports. In short, the present wood situation is far from clear, both from where we are now, and where we are going.

I call to your attention the following excerpts from Forest Service Research Paper PSW—70/1971 which represents a program to plan resources allocation method—RAM. This method is designed to provide an analytical framework for drawing long-range forest management plans and for evaluating wildland multiple-use management policies.

The Forest Service is to be commended for its farsightedness in designing this tool and I shall be communicating with them in assessing the usefulness of this in reporting volumes of timber available for our uses, both from Government and other classes of ownership, and by various intensities of management.

Mr. President, I ask unanimous consent the excerpts be included in the RECORD at this point.

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

PACIFIC SOUTHWEST FOREST AND RANGE EXPERIMENT STATION—USDA FOREST SERVICE RESEARCH PAPER PSW–70/1971

FOREWORD

A major aim of the Multiple-Use Economics research unit of the Pacific Southwest Forest and Range Experiment Station is the development of a Resources Allocation Method (RAM). This method is designed to provide an analytical framework for drawing long-range forest management plans and for evaluating wildland multiple-use management policies.

Timber RAM is a subsystem of RAM, designed to generate cutting and reforestation schedules for commercial forest lands under multiple-use management. These Timber RAM plans can be used to evaluate current management policies and goals and to evolve new ones. Timber RAM was developed by the following members of the research unit staff:

Daniel I. Navon, Economist.

Michael J. Irving, Mathematician and Programer (part-time).

LeRoy C. Hennes, Forester (part-time).

Narendra S. Bakshi, Systems Analyst (part-time).

Steven Chen, Computer Scientist (part-time).

Special credit is due Michael Irving and Steven Chen for writing the Timbram-Matrix program and Michael Irving for writing the Timbram-Report program.

Valuable assistance in the testing of Timber RAM was provided by the Branch of Management Plans and Timber Inventories, California Region of the Forest Service, U.S. Department of Agriculture, San Francisco, California.

GLOSSARY

Many terms familiar to foresters—and mathematical programers—are given particular meaning in Timber RAM

Activity: a scheduled sequence of silvicultural treatments defined for a particular timber class by periodic inputs and outputs per acre treated.

Arbitrary Control Constraint: one of the three types of control constraints which can be imposed on periodic harvests.

Constraint: restriction on the quantity of an input used or output produced during a particular period.

Control Constraint: restriction on the volume (or area) harvested during each period of a sequence of periods—beginning with the first period. The periods for which control constraints are specified are referred to collectively as the conversion period.

Conventional Control Constraint: one of the three types of control constraints which can be imposed on periodic harvests.

Conversion Period: the sequence of periods—starting with the first period—for which harvest control constraints have been specified by the user. Since a harvest control constraint must be specified for the period the conversion period consists of at least the first period. When no harvest regulation constraints are specified. the conversion period can be extended to the planning horizon.

Economic Report: a table produced by the computer program Timbram-Report displaying total periodic costs and revenues for each period from the present up to the planning horizon.

Harvest Graph: a graph produced by the computer program Timbram-Report displaying the total periodic harvest for each decade from the present to the planning horizon.

Harvest Report: a table produced by Timbram-Report displaying the total periodic harvest from the present up to the planning horizon.

Harvest Schedule: a cutting and reforestation schedule produced by Timbram-Report displaying by decade, the acres and volume harvested with each activity, selected from the present up to the planning horizon.

Linear Programing: a mathematical technique for solving resources allocation problems.

Management Alternative: a scheduled sequence of silvicultural treaments for a specific timber class.

Objective: any one of the inputs or outputs summed over a sequence of decades extending from the present up to the planning horizon. Costs and revenue objectives can be discounted to the present.

Planning Alternative: the objective, constraints and activities from which a Timber RAM plan will be calculated.

Period: a decade or the first and second half of the first decade when the "five-year" option is selected.

Planning Horizon: the last period for which inputs and outputs are to be estimated or constrained.

Post-Conversion Period: the sequence of decades from the end of the conversion period to the planning horizon.

Problem Schedule: a schedule produced by Timbram-Report displaying by decade all the inputs and outputs and the contribution to the objective of each activity selected for the Timber RAM plan.

RAM: Resources Allocation Method, a system for long-range multiple-use planning of wildlands being developed at the Pacific Southwest Forest and Range Experiment Station.

Regulated Cycle: a sequence of post conversion periodic harvest spanning a rotation.

Regulation Constraint: restriction on the volume (or area) harvested during any decade of the post-conversion period.

Sequential Control Constraint: one of the three types of control constraints which can be imposed on periodic harvests.

Timber Class: a collection of stands of sufficiently similar character to be treated as if they were identical.

Timber RAM Plan: a cutting and reforestation schedule—and the corresponding revenues and costs—developed with Timber RAM for a particular planning alternative.

Timber RAM Problem: a forest management linear program generated with the computer program Timbram-Hatrex. Several planning alternatives—and therefore several Timber RAM plans can be generated from a single Timber RAM problem.

Timbram-Matrix: a computer program used to set up forest management problems as Timber RAM problems.

Timbram-Report: a computer program used to translate a combination of activities into a Timber RAM plan.

TIMBER RAM

The Timber Resources Allocation Method (Timber RAM) is a computerized method for developing long-range forest management plans. Each Timber RAM plan consists of a cutting and reforestation schedule and of reports tabulating the corresponding stumpage volumes, revenues, and costs. Schedules and reports can span a sequence of decades extending from the present to a "planning horizon" up to 35 decades in the future. With Timber RAM plans, the stumpage and economic potential of large forested areas can be estimated for alternative management policies. Timber RAM plans can also provide aggregate input and output goals and management guidelines for sequences of annual plans. The schedule and corresponding stumpage volumes, revenues, and costs of Timber RAM plans are calculated for 10-year periods. They can also be calculated separately for the first half and for the second half of the first decade to provide schedules and reports for 5-year plans.

Given an inventory of forest resources and alternative ways of managing each type of stand, Timber RAM can be used to calculate a schedule which meets a specified objective, such as: maximize revenues, maximize stumpage volume harvested, or minimize expenditures. Besides meeting the objective, the Timber RAM schedule can be required to meet constraints on the periodic level of revenues, and expenditures, and on the periodic volume of stumpage harvested. The levels at which revenues, expenditures and stumpage are constrained can be varied from period to period. Finally, the Timber RAM schedule can be required to meet constraints specifying what percentage of each type of stand will become accessible for cutting in successive periods.

Timber RAM can be used to develop long-range plans for both privately and publicly owned forests. Private owners, for example, may choose for the objective: maximize the present value of net revenue. They may also choose to constrain cash flows and stumpage harvested above minimum levels for two or three decades. Private owners with an interest in conservation may want to assure a minimum supply of stumpage for additional decades. Private owners with heirs, and public agencies, may well feel obliged to asure a perpetual and stable supply of stumpage. With Timber RAM, they can develop such plans by constraining harvest levels for as long as 35 decades—ample time to stabilize the periodic yield of any forest. Some public agencies may prefer to specify the objective: minimize expenditures; and constrain timber harvest above minimum levels for one or two rotations to insure a sustained yield of stumpage. Public agencies may also want to constrain revenues above a minimum level for several decades to meet the needs of local government.

The opportunity costs of imposing such constraints can be estimated by calculating a second plan in which the constraints have been deleted or modified. An opportunity cost is defined as the difference in the value of the objective in the two plans. The opportunity costs of a policy requiring a stable and perpetual supply of stumpage can be estimated by calculating two Timber RAM plans; the first in which periodic stumpage harvests are constrained for, say two rotations, and the second in which periodic stumpage harvests are not constrained, or constrained for only two or three decades. The opportunity cost of other multiple-use management policies can be estimated in the same way; for example, the opportunity cost of establishing stream bank protection zone of various widths, or of extending endangered species habitats.

Maximizing revenues or minimizing expenditures—is only one of the goals of forest management. By specifying constraints it is possible to introduce explicitly into the planning process many of the other goals pursued by private owners and public agencies.

This paper describes the Timber RAM approach to long-range forest management planning. It outlines the procedures for using Timber RAM on computers, and explains the options of the computer programs.

Timber RAM plans are calculated by the linear programing method. This method has been completely automated and linear programing codes are available commercially for every large and medium size computer. The current version of Timber RAM requires the use of the linear programing code ILONA on the UNIVAC 1108 computer. The Timber RAM programs can be easily adapted to other combinations of linear programing code and computer. The California Region, U.S. Forest Service, for example, is adapting the Timber RAM programs to the code REX and the CDC 3100 computer.

The Timber RAM computer programs and a four-part Users' Manual are available on request to the Director, Pacific Southwest Forest and Range Experiment Station, P.O. Box 245, Berkeley, California 94701. Each program listing and each part of the Users' Manual must be requested by title. To obtain a copy of the programs on magnetic tape, send a 7-track, 800 BPI, one-half-inch tape at least 1,200 feet long to the Director, Attention: Computer Sciences Library. This tape will be written in UNIVAC 1108 EXEC II Symbolic CUR format unless card image format is requested.

Part I of the Users' Manual is the *Smokey Forest Case Study*. It illustrates the use of Timber RAM to draw long-range plans for the Smokey Forest, a hypothetical publicly owned forest. The data forms and listings of the control decks necessary to make the computer runs discussed in the case study are available on specific request to the Director.

Part II of the Users' Manual is the *Forester's Guide*. With this Guide, professional foresters without training in linear programing can use all the standard Timber RAM options. But if they are completely unfamiliar with the care and feeding of computers, they will require some help to process Timber RAM computer runs.

Part III is the *Mathematical Programer's Guide*. It describes the mathematical relations used in Timber RAM. If Timber RAM is used extensively, some savings in data processing can be realized with procedures discussed in this guide. Familiarity with the theory of linear programing and experience in using computers are prerequisites to using these procedures.

Part IV is the *Computer Programer's Guide*. It includes a description and a flow chart of every subroutine used in the Timber RAM programs. The Computer Programer's Guide is primarily designed to facilitate the adaptation of the Timber RAM programs to any large or medium size computer, and to their linear programing codes.

A wide spectrum of silvicultural treatments and management policies can be analyzed with the standard options of Timber RAM. This spectrum can be further broadened by minor modifications in the Timber RAM programs. The necessary information for modifying these programs is presented in the Computer Programer's and the Mathematical Programer's Guides.

TIMBER RAM APPROACH

Timber RAM activities

The Timber RAM approach involves the selection of a combination of "activities"

maximizing—or minimizing—an objective and satisfying constraints. Each activity is a complete sequence of silvicultural treatments extending from the present to the planning horizon. To minimize data processing, all timber stands with similar silvicultural and economic characteristics are grouped into a "timber class." Several activities are then defined for each timber class. A typical activity for a timber class consisting of overaged stands on highly productive land might consist of the following sequence: (1) clearcut the standing timber and plant in the first decade; (2) partial cut the regenerated timber on a 10-year cycle from the sixth decade until the harvest cut in the ninth decade; (3) repeat the treatments on the regenerated timber up to the planning horizon. The Timber RAM activities are expressed by the total inputs per acre required and the total outputs per acre produced in each decade. The concept of an activity can be easily grasped from illustrations for a simplified problem with a 10-decade planning horizon in which stumpage and net revenue are the outputs and land the only input (*fig. 1*). Activity 1 is the Timber RAM activity for the sequence of treatments described above. Stumpage is expressed here in thousands of board feet (MBF) and net revenue in dollars. Outputs and inputs are listed for each decade—with one exception: land. Since this input is the same for every decade (1 acre) it is listed only once. Activity 2 and activity 3 represent the same sequence of treatments as activity 1 but with the standing timber harvest scheduled in decade 2 and 3. Additional activities must be specified if this overaged stand is to be carried beyond the third decade. Activities 1, 2, and 3 assume an 8-decade rotation age for the regenerated timber. To evaluate alternative rotation ages, additional activities must be specified. Activities 4, 5, and 6 represent the same sequence of treatments as the first three activities but with a 7-decade rotation age for the regenerated timber (*fig. 1*). Any sequence of treatments can be described by a Timber RAM activity. Precommercial thinning of regenerated timber in the fifth decade is illustrated with activity 7; overstory removal in the first decade with activity 8; partial cutting the standing timber in the second decade after an overstory removal in the first decade is illustrated with activity 9. Note that activities specified for a given timber class can represent different sequences of treatments and also different schedulings of the same sequence of treatments.

FIGURE 1.—TIMBER RAM ACTIVITIES CORRESPONDING TO SEQUENCES OF FOREST TREATMENTS DEFINED BY PERIODIC OUTPUTS (VOLUME HARVESTED AND DISCOUNTED NET REVENUES) AND 1 INPUT (LAND). THE BOTTOM ROW SHOWS THE CONTRIBUTION OF EACH ACTIVITY TO THE OBJECTIVE "MAXIMIZE DISCOUNTED NET REVENUE OVER THE 1ST 8 DECADES."

Decade, inputs and outputs	Activities (80-year rotation)			Activities (70-year rotation)			Activities (70-year rotation)		
	1	2	3	4	5	6	7	8	9
1st:									
Volume	35			35				12	12
Net revenue	700			700				240	240
(Discounted)	(523)			(523)				(179)	(179)
2nd:									
Volume		36			36				5
Net revenue		720			720				100
(Discounted)		(300)			(300)				(42)
3rd:									
Volume			34			34	34	28	26
Net revenue			680			680	680	560	520
(Discounted)			(158)			(158)	(158)	(130)	(121)
4th:									
Volume									
Net revenue									
(Discounted)									
5th:									
Volume							0		
Net revenue							−55		
(Discounted)							(−4)		
6th:									
Volume	5			5					
Net revenue	75			75					
(Discounted)	(3)			(3)					
7th:									
Volume	8	5		6	5				
Net revenue	120	75		90	75				
(Discounted)	(3)	(2)		(2)	(2)				
8th:									
Volume	6	8	5	30	6	5	7	5	5
Net revenue	90	120	75	750	90	75	105	75	75
(Discounted)	(1)	(2)	(1)	(10)	(1)	(1)	(1.4)	(1)	(1)
9th:									
Volume	30	6	8	30	6	8	6	6	
Net revenue	750	90	120	750	90	120	90	90	
(Discounted)	(5)	(1)	(1)	(5)	(1)	(1.3)	(1)	(1)	
10th:									
Volume		30	6			30	33	30	30
Net revenue		750	90			750	825	750	750
(Discounted)		(3)	(0.4)			(3)	(3.3)	(3)	(3)
Land	1	1	1	1	1	1	1	1	1
Objective	530	304	159	538	303	159	155	310	301

Note.—Volume in MBE, net revenue in dollars (discounted at 6 percent); land in acres.

With the Timber RAM computer program Timbram-Matrix a large number of activities can be specified easily and cheaply, for each timber class, once timber yield, cost and revenue tables have been prepared.

Linear programing

The combination of activities making up a Timber RAM plan, is found by the linear programing method. If no constraints were specified the combination of activities maximizing revenues, maximizing stumpage harvested, or minimizing expenditures could be found by inspection.

To illustrate this point, consider a forest consisting of a single 1,000-acre timber class of over-mature even-aged timber. Let the objective be: to maximize total net revenue from stumpage harvested in the first 8 decades; and let us consider only the sequences of treatment represented by the first six activities defined above (*fig. 1*). For each activity, let us calculate the total discounted net revenue over the first 8 decades and enter it in the row labeled: objective (*fig. 1*). Since activity 4 will yield the highest discounted net revenue per acre over the first 8 decades, all 1,000 acres must be managed with activity 4 to maximize the objective.

If because of contractual commitments, a minimum stumpage volume of 10 MMBF must be harvested in each of the first 3 decades, the entire forest cannot be managed with activity 4 since there would be no timber left to harvest in the second and third decade. Now, the combination of activities maximizing the objective and meeting the constraints on stumpage harvested connot be found by inspection. Although in this example the combination of activities is quickly found with simple arithmetic, more realistic problems involving several timber classes and additional constraints require the use of the linear programing method.

The solution to our simplified problem is: Objective = $361,522 = (428) ($538) + (278) ($304) + (294) ($159).

Activity number	Acres managed	Stumpage harvested in decade, 1st	2d	3d
4	428	15	0	0
2	278	0	10	0
6	294	0	0	10
Total	1,000	15	10	10

The solution to this problem shows two characteristics typical of Timber RAM plans:

First, the total inputs and outputs contributed by each activity is directly proportional to the number of acres managed with this activity. Mathematicians call this type of proportionality "linearity;" hence, linear programing. For example, the total contribution of activity 4 to the volume harvested in the first decade (15 MMBF), is the yield per acre (35 MBF) multiplied by 428, the number of acres to be managed with this

activity. The objective is calculated by the same method.

Second, a given timber class is managed with several activities. In this example 42.8 percent of the timber class area must be managed with activity 4; 27.8 percent with activity 2 and 29.4 percent with activity 6. In real situations there will be many timber classes, nevertheless several activities will typically be required to manage each timber class. These activities may represent different sequences of treatments as well as different schedulings of the same sequence of treatments. Note that, the regenerated timber on the timber class in our problem is managed partly on one rotation (8 decades for activity 2) and partly on another (7 decades for activities 4 and 6).

PLANNING WITH TIMBER RAM

Defining planning alternatives

With Timber RAM a combination of activities maximizing—or minimizing—an objective is found given a set of activities for each timber class, and constraints on the inputs and outputs. Changing the objective, constraints, or activities defines a new planning alternative for which a different combination of activities will normally be found. For example, given a set of activities and constraints, a combination of activities will be obtained by selecting as objective: the total discounted net revenue collected over 8 decades; a different combination of activities will be obtained in most situations if instead, total discounted net revenue collected over 4 decades is selected as the objective. Each new combination of activities is also a new Timber RAM plan.

Several Timber RAM plans will normally be required to plan each management unit. The first Timber RAM plan can reflect current or tentative policies and goals. For example: maximize discounted not revenues for the first 8 decades; clearcut the standing timber and manage the regenerated timber on a 7- or 8-decade rotation; and harvest at least 10 million board feet in each of the first three decades. This first Timber RAM plan will establish whether the harvest goals for the first 3 decades is feasible, and if it is, what the maximum total discounted net revenue for the first 8 decades can be. A great deal more information is provided by the Timber RAM plan. This information is presented in cutting and reforestation schedules and reports and a Harvest Graph. The schedules display for each activity selected the inputs per acre and outputs per acre; the number of acres to be managed; and the total periodic inputs and outputs. The reports summarize this information for each period over all the activities selected. The Harvest Graph displays the total periodic stumpage harvested for each decade from the present to the planning horizon.

Additional planning alternatives can be defined and the corresponding Timber RAM plans obtained by making one or a combination of changes in the specification of: the objective, the constraints, and the activities. For example: Changes in the objective can be specified:

By varying the number of decades over which the objective is defined (maximize discounted net revenues over 4 decades instead of over 8 decades)

By changing the index of performance (maximize stumpage volume harvested, instead of maximize discounted net revenues)

By varying the discount rate of the index of performance (discount net revenues at 10 instead of 6 percent).

Changes in constraints can be specified by varying the level of constraints in the first Timber RAM plan or by adding or deleting constraints. With such changes it becomes possible:

To explore changes in current or tentative goals

To evaluate alternative multiple-use management policies on: even flow, sustained yield, and the size of stream side zones, and of scenic areas and protected wildlife habitats

To evaluate accelerated road construction or tree improvement programs.

Changes in activities can be specified by adding or deleting activities to evaluate:

Special treatment for sensitive areas

Different rotation ages

New types of logging

Various levels of management intensity including fertilization and the introduction of genetically improved stock.

Professional training, experience, and intuition must be exercised in selecting the specifications of each additional planning alternative.

Selecting a timber RAM plan

If all the inputs and outputs defining the activities can be expressed in some common unit, a single value for each Timber RAM plan can be calculated. Then Timber RAM plans can be ranked rationally. If no common unit can be defined, the alternative solutions must be ranked intuitively. Even if a purely rational ranking of plans is possible, the final selection of a plan must be made intuitively to give proper consideration to social needs and political realities.

In the process of selecting a plan, management policies represented by alternative Timber RAM plans are implicitly evaluated. An explicit evaluation can be made once a plan has been selected, by changing the specifications of the constraints or of the activities to simulate the change in policy to be evaluated. The coordination of resource management planning with road construction planning can also be carried out by changing the specification of constraints. For example, the management of stands in unroaded areas might be planned as follows:

A Timber RAM plan is generated on the assumptions all stands are currently accessible. This plan is submitted to the transportation planners who determine whether an economical roading plan can be developed to meet the requirements of this initial Timber RAM plan. Transportation planners may find it economical to defer road access to certain stands. Accessibility constraints would be specified and a new Timber RAM plan generated. This plan would again be submitted to the transportation planners for review. This procedure can be extended to include review of Timber RAM plans or revisions of Timber RAM problems by fire, recreation, range and wildlife management planners.

When linear programing is used to find a combination of activities, the assumption is made that for each activity, average timber yield, costs, and revenues per acre are constant regardless of the number of acres managed with this activity. When timber classes are reasonably homogeneous, the average stumpage harvested with any activity is indeed constant—regardless of the number of acres cut; average revenues and costs, however, usually are not. If large areas are cut, the average revenue per acre may fall as the price is driven down; so will the average cost per acre as economies of scale are realized.

This proportionality — or linearity — assumption introduces a possible bias in the estimation of total periodic inputs and outputs and in the selection of the combination of activities. The economic data used in long range planning are necessarily crude: expected prices and costs 10, 20, 30 years hence, often for treatments never yet attempted. The additional error induced by the "linearity" assumption will be relatively small if for each activity, average costs and revenues per acre are estimated for an "expected number of acres managed," equal to, say, one-half the acreage of the timber class. The activity level for each Timber RAM plan must then be inspected to establish by how much they differ from the "expected number of acres managed," and to determine whether the inputs and outputs per acre defining the activities are still acceptable estimates.

To obtain a more rigorous measure of the possible bias introduced by the "linearity" assumption, the objective and total periodic inputs and outputs of the Timber RAM plan can be recalculated with adjusted inputs and outputs for the activities selected by the linear program. This step requires making only two computer runs: one with Timbram-Matrix and one with Timbram-Report. (Detailed procedures are explained in the *Forester's Guide*—Part II of the Users' Manual.) The schedules and reports obtained without making a linear programing computer run are only a pseudo Timber RAM plan because by definition a Timber RAM plan is a solution to a linear programing run.

If the differences between the Timber RAM plan and the pseudo Timber RAM plan are unacceptably large, a new Timber RAM plan can be generated with the adjusted coefficients, and the activity levels once more inspected. By comparing the schedule of the initial Timber RAM plan with that of the Timber RAM plan generated with adjusted costs and revenues the bias induced by the linearity assumptions in the selection of the combination of activities can be assessed.

The stability of the combination of activities, objectives, and total periodic inputs and outputs with respect to adjustments in the data, must in any case be explored before making operational decisions based on Timber RAM plans. If a 10 percent change in costs, revenues, or stumpage data results in a combination of activities requiring completely different treatments or schedulings of treatments, then the Timber RAM plans cannot provide stable management guidelines. However, they may still provide stable estimates of the economic and silviculture potential of a forest. For example, the Timber RAM plan based on adjusted inputs and outputs may require that a completely different group of timber classes be managed intensively but show only small changes in the objective and total periodic inputs and outputs. Fortunately, the stability of Timber RAM plans can, in many cases, be improved by redefining some of the timber classes and activities.[1] Of course, only the individuals responsible for making management decisions can judge what level of instability in the Timber RAM plans is acceptable. If acceptably stable plans cannot be generated with Timber RAM, more sophisticated methods, such as, quadratic, dynamic or mixed integer linear programing must be used to develop long-range plans.

The realism with which land management and policy alternatives can be evaluated with Timber RAM plans depends on the characteristics of the Timber Resources Allocation Method and upon the imagination with which it is used. The characteristics of the method are defined by the aspects of linear programing discussed above and the imagination with which it can be used is restricted by the options of the two Timber RAM programs: Timbram-Matrix and Timbram-Report.

TIMBRAM-MATRIX OPTIONS

Activities

Timber RAM activities can be defined by two inputs: Land and Cost; and four outputs: Volume Harvested, Gross Revenue 1, Gross Revenue 2, and Net Revenue. Every

[1] The clues necessary to carry out this delicate task are obtained by making a "sensitivity analysis." See Dantzig, George B., *Linear programming and extensions*. Princeton: Princeton University Press, pp. 265–275. 1963.

activity in a Timber RAM problem must be defined by the same inputs and outputs. Any combination of inputs and outputs is admissible as long as it includes land.

The precise definitions of Cost, Gross Revenue 1 and Gross Revenue 2 are left to the discretion of the user. Net Revenue is calculated automatically by Timbram-Matrix as the difference between Gross Revenue 2 and Cost.

Definitions may reflect business or social accounting categories. For example, a public agency might define Cost as operating expenses, Gross Revenue 1 as gross national product, and Gross Revenue 2 as gross stumpage fees collected. Net Revenue which is automatically calculated by Timbram-Matrix as the difference between Gross Revenue 2 (stumpage collected) and Cost (operating expenses) would then represent net revenues.

The units for land, stumpage volume and revenues and costs are respectively acres, thousand board feet and dollars. These can be changed to any unit desired with trivially simple changes in a few subroutines of Timbram-Matrix and Timbram-Report.

The unit of time or period in Timber RAM is a decade. Hence, the inputs and outputs, defining the activities are totals over each decade. To provide targets and management guidelines for 5-year plans, inputs and outputs can also be totalled for the first and second half of the first decade. Changing the unit of time requires major modification of several subroutines.

Each input and output can be defined for up to 35 decades. All inputs and outputs need not be defined for the same number of decades, but any one input or output must be defined for the same number of decades in all the activities. To illustrate, for every activity, Volume Harvested can be defined for 30 decades while Revenues and Costs are defined only for 5 decades.

The number of activities which can be defined for each timber class is unlimited. Several hundred activities are likely to be defined for a Timber RAM problem. The data preparation and processing task is greatly reduced with the management alternative options. For each timber class, sequences of treatments are specified and Timbram-Matrix generates the activities corresponding to specific alternative schedulings. For example, activities 1, 2, and 3 discussed above (*fig. 1*) can be generated by defining the management alternative:

Clearcut the standing timber
Reforest the same decade
Partial cut the regenerated timber on a 10-year cycle from age 50 until harvest cut at age 80
Schedule the standing timber cut for the first 3 decades

and by providing Timbram-Matrix with tables of yields, costs, and revenues. To define a management alternative both a sequence of treatments and its scheduling must be specified. This is done by completing a single line on one of the specially designed Timbram-Matrix data forms. Many different types and sequences of treatments can be specified with the standard management alternative options. If some activities cannot be specified with these options the user has two alternatives: generate each of these activities himself and enter the data on another of the Timbram-Matrix data forms, or modify the program Timbram-Matrix. The management alternative options and the technique used by Timbram-Matrix to generate activities are discussed in detail in the *Appendix*.

Objectives

In Timber RAM, each of these inputs and outputs can be used as an index of performance, or objective: Volume Harvested, Gross Revenue 1, Gross Revenue 2, Cost, and Net Revenue. The precise definition of the first four is entirely at the discretion of the user; the last, Net Revenue, is calculated by Timber RAM as the difference between "Gross Revenue 2" and "Cost."

These objectives can be defined for any sequence of decades desired up to the planning horizon of the Timber RAM problem. For example, decisions to "maximize total Net Revenues for the first 3, 5, or 12 decades" represent three possible objectives for a Timber RAM problem with a planning horizon of at least 12 decades. The economic objectives—Gross Revenue 1 and 2, Net Revenue, and Cost—can be discounted at any interest rate desired. In addition, Gross Revenue 1 or 2 and Cost can be discounted at different interest rates—a practice strongly recommended by some economists.[2] But when this is done, no discount rate can be attributed to Net Revenue. All discounting is calculated on the assumption that costs and revenues occur in the middle of each period.

For a given Timber RAM problem six alternative horizons can be specified for each objective. In addition, the cost and revenue objectives can be discounted at seven different interest rates. Up to 174 alternative objectives can be specified in a single Timber RAM problem.

Constraints

A forest manager's freedom of action is limited by many considerations. Some of these limitations can be expressed in Timber RAM by specifying "Constraints." Thus, the manager can allow for limitations on the area and accessibility of the timber classes; on the availability of genetically improved planting stock; on the periodic level of harvests, costs, and revenues. Constraints can also be specified to regulate the forest and to insure a controlled flow of timber during the conversion period. All these constraints are imposed by specifying upper or lower bounds on the periodic level of the inputs and outputs defining the activities.

Area and Accessibility Contraints

These constraints are specified individually for each timber class. They can be modified only by making a computer run with Timbram-Matrix to define a new Timber RAM problem.

Area constraints can be specified as the *maximum* number of acres to be managed with the Timber RAM activities; this specification allows the possibility that none, or only a few of the acres of a timber class will be managed. Area constraints can alternatively be specified as the *total* number of acres to be managed with the activities; thus insuring that every acre of this timber class will be managed.

Timber-class area constraints can provide a partial basis for evaluating land classification policies. For example, the impact of establishing scenic corridors or vistas on costs, revenues, and volume harvested can be estimated by reducing the area of the timber classes affected and preparing a new Timber RAM plan. Or the acreage of each timber class falling in the scenic zone can be defined as one or several separate timber classes and special silvicultural treatments specified to preserve the esthetic qualities of this area. The policy to establish scenic zones can then be evaluated by analyzing the schedules and reports for the "scenic" and "nonscenic" Timber RAM plans. This procedure can be extended to evaluate policies on streamside zones, or high-erosion zones.

Accessibility constraints specify the percent of the acreage of each timber class which is expected to be accessible in each of the first five planning periods. These constraints are omitted when every timber class is fully accessible at the beginning of the first period. Note that if the first decade is split into two planning periods, the first five planning periods will span only 4 decades. By manipulating these accessibility constraints, an accelerated road construction plan can be evaluated in terms of the input or output selected as the objective. To do this a second Timber RAM problem is defined—identical to the first except for the percentage of the acres of each timber class accessible in the first five periods, which now must reflect the accelerated roading plan. A first approximation to the value of the accelerated roading plan can be obtained by weighing the change in the objective against the difference in cost of the two roading programs.

Periodic Constraints

In Timber RAM every constraint is in fact a periodic constraint, but it is convenient to reserve this term for constraints which can be modified without rerunning Timbram-Matrix.

Periodic constraints can be specified on the area planted with genetically improved stock and on the level of each of the five inputs and outputs which can be used as indices of performance (Volume, Gross Revenue 1, Gross Revenue 2, Net Revenue, and Costs). These constraints are specified either by an "upper" or by a "lower" bound on the periodic level. Gross Revenues, Net Revenues, and Volume Harvested can only be constrained above minimum periodic levels by "lower bounds." Costs and the area planted with genetically improved stock, can only be constrained below maximum periodic levels by "upper" bounds. Periodic constraints can be specified for every decade up to the planning horizon. These constraints must be specified with great care since it is quite easy to specify a maximum cost level inconsistent with a minimum harvest or revenue level. In such a case, the linear program computer run will abort and the computer printout will state that there is no feasible solution. Fortunately, these levels can be changed without rerunning the Timbram-Matrix program.

In the first decades of a tree improvement program, the number of acres which can be reforested with the improved stock may be limited by the availability of planting stock. In such a situation, the maximum number of acres on which improved stock can be planted can be specified for every decade up to the planning horizon. In each decade, the improved stock will be allocated to the area offering the highest return—in terms of the objectives specified—and normal stock will be planted on the remainder of the acres reforested in that decade. Hence no matter how little genetically improved stock is available, the linear program computer run will never abort because of the constraints.

Harvest Control and Regulation Constraints

Harvest control constraints are used to shape the stream of harvests, regulation constraints to stabilize it.[3] Control and regulation constraints are specified by an upper and a lower bound on the periodic harvest levels and can be changed only by rerunning Timbram-Matrix. These bounds can be set at different levels for every period. Any degree of control and regulation can be specified by varying the bounds. Harvest control constraints are mandatory. They are imposed on the first and succeeding decades which are then referred to as the "conversion period." Therefore the length of the "conversion period" in Timber RAM is determined by the number of decades for which the user speci-

[2] Mobasheri, F. *Optimization techniques in the planning, design, and operation of water resources systems.* (Unpubl. rep. on file, Eng. & Physical Sci. Ext., Univ. Calif., Los Angeles, Calif. 1968.)

[3] For a detailed discussion of the Timber RAM approach to forest regulation see Hennes, LeRoy C., Daniel I. Navon, and Michael J. Irving, *Harvest control and regulation in Timber RAM.* USDA Forest Serv. Res. Note PSW-231, 10 p., illus., Pacific SW. Forest & Range Exp. Sta., Berkeley, Calif. 1971.

fies harvest control constraints. The compulsory specification of a "conversion period" greatly simplified the structure of the computer program. Users not interested in harvest control can specify very wide bounds for a single decade. This one decade "conversion period" will have no impact on the selection of combination of activities. Regulation constraints are optional. When they are specified they must be imposed on the remaining decades of the Timber RAM plan which are then referred to as the post-conversion period. Hence in Timber RAM, the post-conversion period always spans the decades from the end of the conversion period to the planning horizon.

Harvest control and regulation constraints can be imposed either on the total stumpage volume or on the total number of acres harvested in each period. In a given Timber RAM problem all the harvests constraints—including the Periodic Harvest constraints—must be expressed in the same units. The constraints being very similar for the "volume" and "area" options, the discussion will assume that periodic harvests are expressed in thousand board feet, and only differences will be pointed out.

Three types of control can be imposed on the conversion-period harvests: arbitrary, sequential and conventional.

In *arbitrary control,* the harvest level of each period is restricted to a range of values specified by a fixed upper and lower bound; for example: 125 and 90 million board feet—or 3,000 and 2,500 acres. When the arbitrary control and the volume options are selected, Periodic Harvest constraints are redundant and should not be specified. Arbitrary control can be used to generate Timber RAM plans with any sequence of periodic harvests consistent with the resources available and treatments specified.

In *sequential control,* each periodic harvest level is restricted to a range of values around the preceding periodic harvest level. The upper and lower bounds of this range are expressed as a percentage of the preceding periodic harvest level; for example: given a harvest level of 100 million board feet, 0.25 and 0.10 specify the range 125 to 90 million board feet for the next periodic harvest. The first periodic harvest level is restricted to a range around a specified "current level," to provide a means of insuring a smooth transition into the Timber RAM plan. With sequential control constraints, large jumps or drops in stumpage harvested can be bridged by gradual changes in periodic harvest levels.

In *conventional control,* each periodic harvest level is restricted to a range of values around their average. The upper and lower bounds of the range are specified as percentages of the average. The first periodic harvest can in addition be restricted to a range around a specified "current level" to insure a smooth transition into the Timber RAM plan. The upper and lower bounds of this range are also specified as percentages—but of the "current level." (If the two ranges constraining the first periodic harvest are inconsistent, the linear program computer run will abort with the comment "infeasible.")

Regulation constraints are specified to stabilize the periodic stumpage harvest level by redistributing acres among age classes. This is accomplished indirectly by controlling the periodic harvest level after all overaged or poorly stocked timber classes have been liquidated during the decades of the conversion period. This control is exercized by restricting each of the post conversion periodic harvest levels to a range around their average. The width of this range will reflect the degree of regulation desired.

To illustrate, consider a forest consisting of a dozen timber classes varying with respect to age stocking and area, but of uniform potential productivity or "site class." Let us further assume that all the standing timber is cut during an 8-decade conversion period. If all the regenerated timber is to be managed on the same rotation age, say 80 years, the periodic harvests after the eighth decade will re-occur on an 8-decade "regulated cycle." Therefore by restricting the post-conversion periodic harvest levels to a range around their average for only 8 decades the forest will be regulated for an indefinitely long period—in theory. The conversion period need not be as long as the post-conversion period. To illustrate, in the above example, if sufficient acreages of 10-, 20- and 30-year-old saplings and poles are already standing, the conversion period can be cut to 5 decades. But to stabilize periodic harvests, it is essential that by the end of the conversion period all overaged and poorly stocked acres be liquidated, since otherwise the second "regulated cycle" of periodic harvests will be different from the first.

If several rotation ages are contemplated, the "regulated cycle" has a much longer period. For example, for 7- and 8-decade rotations the cycle is 56 decades (the smallest common multiple of seven and eight). In these cases the post-conversion period can be limited to the longest rotation age—here 8 decades—and the forest will be for practical planning purposes adequately regulated. If total periodic stumpage is stabilized but partial cuts account for too large a percentage of the stumpage harvested in some of the post-conversion decades, the regulation constraints can be specified on the stumpage clearcut only. When the standing timber consists of largely overaged stands, a large drop in volume harvested may occur between the last decade of the conversion period and the first decade of the post-conversion period. This drop can be controlled with the "conversion link" constraint. With this constraint, the last periodic harvest level of the conversion period is restricted to a range of values around the average harvest level of the post conversion period.

When harvests are defined in terms of the number of acres harvested, and the potential productivity of the timber classes does not vary widely, stumpage harvested can be stabilized by imposing control constraints only. A conversion period extending over a number of decades equal to the longest rotation on which the regenerated timber will be managed will usually provide an adequately regulated forest. But unless the forest is already approximately regulated, wide fluctuations in periodic stumpage are likely to occur during the conversion period. Defining the harvest constraints in terms of the number of acres harvested is likely to prove useful only in peculiar situations. This option is provided in Timber RAM as a tribute to traditional forest management methods; and because its marginal cost was low.

TIMBRAM-REPORT OPTIONS

The Timbram-Report program can translate the linear program solution into any combination of the following five documents:

Timber Harvest Schedule
Problem Schedule or Objective Report
Harvest Report
Economic Report
Harvest Graph

These documents are illustrated with computer printout of the Smokey Forest Case Study.

The Timber Harvest Schedule gives—for each activity selected by Timber RAM—the number of acres to be managed, the cut per acre, and the total cut for each period. The Schedule also gives the total volume harvested in each period and a breakdown by overstory removals, clearcuts, and all other cuts.

The problem schedule is similar to the harvest schedule but gives economic data as well as harvest volume. In addition, it shows the contribution of each activity (per acre and total) to the objective. The total objective value appears at the top of the report. Periodic totals for every input and output are given at the bottom. All revenues and costs are discounted at rates set by the user. The discount rate(s) of the objective or a zero discount rate should be included among the rates set by the user. Because this section of the program supplies large quantities of information the user should not request more periods of output than is absolutely necessary. When the Problem Schedule is not requested, an Objective Report is output automatically. This report gives only the activity name, acres managed, and the total contribution of each activity selected by Timber RAM to the objective.

The Harvest Report is an abstract of the Timber Harvest Schedule giving the total periodic and cumulative volumes harvested in each period. Subtotals for periodic overstory removal and partial cuts are also given. The true post-conversion average harvest level is also given at the top of the report. This average will differ from the average of the post-conversion harvests calculated by Timber RAM if the Regenerated Timber is managed on two or more rotations.

The Economic Report is an abstract of the Problem Schedule giving the periodic and cumulative values for Cost, Gross Revenue 1, Gross Revenue 2, and Net Revenue. Each can be discounted with up to five different discount rates.

The Harvest Graph displays the harvest level for every period up to the planning horizon.

Multiple copies of the Timbram-Report output can be requested and an additional copy can be placed on magnetic tape as a permanent record if desired.

CONCLUSIONS

The solution to a Timber RAM problem is not necessarily the best combination of activities. It is only a combination which is consistent with specified constraints and which maximizes—or minimizes—a particular index of performance. Managers and planners must then evaluate alternative combinations of activities by determining the extent to which each combination meets social, economic, and ecological needs and political realities. This evaluation is too complex and too subtle to be programed for computers; in our society, it lies largely outside the domain of economic analysis.

Timber RAM simplifies the planning task by shifting to computers the burden of calculating alternative plans with which planners and managers can determine whether policies governing the multiple-use management of forest land are mutually consistent. And when policies are consistent. Timber RAM makes it possible to estimate the inputs required and the outputs produced should these policies be carried out efficiently. The complexity of natural, social, and economic phenomena dictates that these estimates will be at best crude. Hence, Timber RAM estimates must be considered only first approximations to the actual inputs and outputs. Nevertheless a tool such as Timber RAM places a high premium on the improvement of data gathering and processing, for this in turn will lead to improvement of the estimates.

Timber RAM not only permits evaluation of current policies, it also can be used to develop new policies. It will indicate whether with current and expected technology a policy can be carried out and at what cost; whether it can be carried out only by modifying related policies; and how much these policies must be changed.

The inputs and outputs estimated by Timber RAM are limited to timber, land area, and related costs and revenues. The interaction of range, watershed, recreation, wildlife, and timber management policies can be partially evaluated in terms of the Timber RAM inputs and outputs. The impact of ex-

tending recreation use, or stream and wildlife protection, can be introduced in the Timber RAM analysis by defining appropriate activities and manipulating timber class acreages. Extension—or contraction—of range areas can be handled in a similar manner. And the analysis of these policies can be integrated with policies defining the desired timber production profile.

Timber RAM is thus the first step toward a quantitative evaluation of multiple-use interactions. Work on the Resources Allocation Method seeks to extend the list of estimates to include as many inputs and outputs of multiple-use forest management as the current state of the arts reasonably permits. In the measure in which this attempt succeeds, RAM schedules and reports will permit a still more rational evaluation of the interaction of multiple-use management policies.

THE EXPORT OF MILITARY TECHNOLOGY—UNANSWERED QUESTIONS

Mr. RIBICOFF. Mr. President, at this morning's hearings in the Finance Committee's Subcommittee on International Trade, we heard some rather startling testimony. Mr. Andrew Biemiller, director of the Department of Legislation of the AFL–CIO, revealed that the plans and technology for a number of modern weapons systems, including a complete ICBM system, were being exported to a number of foreign countries.

The AFL–CIO witness sought to show what this meant in terms of the loss of American jobs and our lead in producing high technology goods. But in addition, there are obviously serious national security implications. The sale of our military technology to foreign nations also raises the issue of why this technology, created at great expense to the American taxpayer, is being sold to foreign companies for production abroad.

Our subcommittee intends to dig deeper into this whole subject on the basis of the details provided us by the AFL–CIO, and what else we can develop. We expect full answers from the responsible government agencies and are considering calling witnesses.

In order that greater attention be focused on this issue, and that my colleagues have the opportunity to see this important testimony, I ask unanimous consent that the text of Mr. Biemiller's testimony be printed in the RECORD.

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

STATEMENT BY ANDREW J. BIEMILLER

The AFL–CIO welcomes the opportunity to appear before this subcommittee to explore problems related to the operations of multinational corporations. We believe that the unregulated activities of U.S.-based multinational firms are a major factor in the worsening position of the United States economy in an ever-changing world.

We are convinced that American-based multinational firms export American jobs, export American technology and export American capital. We do not claim that all of America's trade woes are the fault of the multinational firms, but within the confines of this committee's study, we wish to call attention to the need for legislation to curb the devastating impact these activities have on the American society and the American economy.

This devastation includes:

The shutdown of American production and its re-establishment abroad where foreign markets are served and exports to the U.S. are manufactured.

The location abroad of facilities for corporate expansion and the production of new products and improved products.

The export of technology by direct transplant, by licensing, by patent agreement and by other methods, thereby eroding the base on which America's industrial society is built, much of it paid for by American taxpayers.

The export of capital to build an industrial base abroad at the expense of U.S. industry, the profits of which are often used to speculate in the world's monetary markets against the U.S. dollar.

These massive operations by American multinational corporations in Taiwan, Mexico, Haiti, Hong Kong, Singapore, Brazil, Europe, Japan and virtually the entire globe are taking a heavy toll among American families and American communities from coast to coast.

The shutdown of manufacturing operations here depresses the American economy by the loss of domestic jobs, the loss of payrolls, the loss of domestic corporation revenues, the loss of local purchasing power, the loss of local taxes and the "ripple out" effect on the local service economy. Hard hit communities face empty factories, slackened business on Main street, unemployed workers and heavy revenue losses. Meanwhile, the multinational corporation, freed of its American responsibility, issues rosy reports of expanding sales and rising profits and "creation of American jobs."

It is important that Americans understand this major phenomenon of the multinational firm and its impact on America's standard of living, on America's trade balance, its balance of payments and its industrial future.

Today, thousands of giant firms are supranational entities, each making decisions in its own interest with major consequences in shaping the America of the Seventies and the America of the future. These corporations make private decisions for private purposes, but they are as far-reaching as major decisions of a political state.

Multinational firms come in all shapes and sizes. They produce, sell, license and finance operations of magnitudes greater than entire budgets of sovereign nations. They jump national boundaries. They overwhelm international systems of trade and finance. They stagger currencies, they shake governments and they wipe out whole major industries.

In the U.S., multinational firms include America's largest employers, largest defense contractors, largest government contractors, largest manufacturers, largest financial institutions. Multinationals are America's major exporters and importers of products, technology, money and jobs. (Appendix 3G shows examples of some firms' holdings.)

Abroad, multinational exports from their foreign operations are larger than all of U.S. exports. The recent Tariff Commission report disclosed that some of the multinational firms' "majority owned affiliates" abroad exported in 1970 to countries other than the United States an estimated $33 billion, compared with exports to the United States of $10 billion and local sales within the foreign country of $118 billion. This total of $43 billion in exports is virtually identical to the 1970 total of all exports from the United States.

But that isn't all. The multinational firms' $43 billion worth of exports from their foreign operations in 1970 does not include output from plants partially owned or output from licenses in countries like Japan. Therefore, it is clear that U.S.-based multinationals are so massive in operations abroad that they create more exports outside the U.S. than the United States as a whole is able to export.

These foreign exports—to the U.S. and to other markets—clearly illustrate why efforts to expand exports from the U.S. met increasing competition, not only from foreign firms but also from the U.S. multinationals abroad.

The exports of foreign manufacturing subsidiaries of American companies is more than twice as great as the total volume of manufactured exports from the U.S.

Let us examine this phenomenon in more detail. Let's look at U.S. jobs, U.S. technology and U.S. industry in the Seventies, as they relate to the multinational firms. Virtually every U.S. industry is affected but we will confine our examination to one single industry—aerospace. Americans have been told that this particular industry is securely ours because it is strong in exports, high in technology and vital to America's national security.

But events in the aerospace industry explain how job and technology exports affect all skill levels—and why reports on trade statistics or foreign direct investment alone fail to cover the whole story of the new interchange in the world of the 1970s.

The aerospace industry, where U.S. has held technological supremacy, is steadily being exported abroad. At this moment, for example, an entire missile launching complex—rocket and all—which has the potential for intercontinental missile capability, is being exported to Japan.

The AFL–CIO has learned that the *Thor-Delta launch rocket and its entire missile launch system* is now in the process of being sold to the Japanese by the McDonnell-Douglas Corporation, a multinational firm. Japanese engineers are currently at Vandenberg Air Force Base in California being trained in the development and use of the system. A prototype rocket is being built in nearby Santa Monica. It is expected that upon completion, the system will be set up on an island west of Japan. The Thor-Delta rocket and launch system is considered by space experts to be America's most effective and reliable launching unit. The system is presently used to launch satellites, the most recent being the Earth Resources Technology System.

The Thor-Delta system is capable of carrying several hundred pound objects into space orbit or, with little modification, can carry a nuclear warhead in the 1,500-to-5,000 mile range, clearly a potentially offensive weapon.

The export of the Thor-Delta system to the Japanese means that the capability of satellite and intercontinental missile launching system will no longer be the exclusive property of the U.S. and the Russians.

For several years the Japanese attempted to develop a system of their own and after its failure made a contract with the multinational McDonnell-Douglas Corporation to buy plans and production capability for a modified Thor-Delta rocket system. The basic system was developed at taxpayer expense and cost millions of dollars in research and development funds before it became operational. It has been used to launch satellites for Canada, France and a multi-nation weather watcher for seven North European nations. Such launching work has provided the U.S. with millions of dollars in funds, helping to offset the U.S. balance of payments deficit.

This one-time sale, which, of course, benefits the U.S. balance of payments this one time, will adversely affect U.S. balance of payments for years to come.

Workers involved at the Vandenberg base are understandably upset over the transfer because of its many implications for U.S. defense and aerospace capability. They fear that the system is being sold for the exclusive profit of McDonnell-Douglas while the nation loses a basic resource. They point out that the education of highly trained

Americans, millions of dollars in U.S. funds and expensive trial and error testing brought about a basic technological system which is now being sold out at a fraction of its worth.

In addition, they fear that putting another nation into direct competition in the satellite launching business will mean an end to development of further U.S. technology in this area. The sale of America's most sophisticated technology, they feel, will cause highly trained jobless personnel to disperse and be difficult to assemble again, even if further development is considered. In addition to those who work at the launch facility, additional hundreds of workers have been employed in the manufacture of the Delta rocket in California aerospace factories. Involved in the project at the present time are an estimated 1,200 to 2,000 skilled aerospace workers.

Initiative for the Japan-McDonnell Douglas deal was developed at a 1971 meeting in Tokyo between U.S. cabinet officers and their Japanese counterparts. That meeting in effect ratified the negotiations that had been under way for the missile system sale.

Estimates at that time were that the bilateral understanding could mean up to $100 million in profits to U.S. concerns over four to five years. Of added incentive to the U.S. companies was the agreement by Japan at that time to move ahead on permitting foreign investment by U.S. multinational firms in its automotive industry. Both moves would profit stockholders of the corporations involved at the expense of U.S. aerospace and automobile workers.

The 1973 Tariff Commission report on multinational firms disclosed that such firms (which would include McDonnell-Douglas, even though the Commission did not include aerospace) "dominate the development of new domestic technology. They are also the principal institutions through which technology in its various forms is exported and imported."

Throughout the aerospace industry there are many other illustrations of the export of technology, in what has been this nation's industry with the largest the export of manufactured goods. The long range implications for U.S. jobs, U.S. technology leadership, U.S. defense, and balance of payments should be ominously clear. There are many other illustrations. For example:

Since 1971, hardware for the *Safeguard antimissile system* has been assembled in Hong Kong. Under a subcontract for Western Electric, Lockheed Electronics Corporation of Commerce, California, is assembling components of the missile system's memory core racks in a Hong Kong factory. The Lockheed plant—only a few miles from Red China—employs 700 workers at $2 per day. The export of work cut several hundred workers from the company's Commerce facility at a time when there was heavy unemployment in the California aerospace industry.

In military aircraft, too, American industrial leadership is being rapidly sold off and exported abroad. McDonnell-Douglas has licensed Mitsubishi of Japan to build 91 *F–4 fighter* planes, the famous Phanton fighter. After building two prototypes in St. Louis, the company made a contract with the Japanese to furnish the blueprints, the technology and, where necessary, technicians to build the other 91 F–4 in Japan. The result is a heavy loss of employment among highly trained U.S. aircraft technicians, the loss of paychecks to St. Louis, the loss of an export industry and the transfer of a total military production facility to another nation. The potential for balance of trade was considerable.

Also in military aircraft, the Northrop Corporation is reported in the press as about to license the production of the American *F–5E fighter* plane in Taiwan. Currently all nationalist Chinese military aircraft are bought in the United States. One U. S. official, commenting on the deal, regarded it solely in military terms: "Whether we manufacture the planes here and sell them to Taiwan, or let it manufacture them shouldn't make all that much difference." In economic terms, the impact is far greater. Not only will Taiwan manufacture the planes for its own use and thus cost Americans their jobs, but Taiwan is expected to export its manufacture of F–5E aircraft to other nations, thus cutting further into U. S. exports and balance of payment receipts among other nations buying U. S.-made aircraft.

Ironically, Taiwan is doing very well in terms of its trade with the United States. In 1972, the United States exported $630 million in goods to that nation. During the same period, the U. S. imported a torrent of TV sets, electronic equipment and other products for a total of $1.3 billion, mostly produced by U. S. multinational firms. Thus with the F–5E export and job loss here, America's very heavy trade deficit with Taiwan will become worse.

Earlier, the F–104 Starfighter followed the same export route. When Japan wanted the F–104 Starfighter, then built by Lockheed in California, it arranged to have it built in Japan. Lockheed not only shipped over the designs, tools and equipment, but supplied the supervision needed to train the Japanese workers. Now, of course, Japan has the technology as well as the plane. The same is true in Italy where the Italian Air Force, which currently has 165 F–104 aircraft now plans to manufacture the plane in Turin.

Technology in the *engine* for the *B–1* bomber also nearly became an export but was halted only because it contained military secrets. General Electric and SNECMA, France's state-owned aircraft engine maker, arranged to build a "quiet engine" for airliners. Under the deal, the French would lend half of the $500 million needed and GE would supply much of the technology.

The deal was vetoed by the State and Defense Departments on the ground that GE's technology sale involved disclosing a U. S. military secret: the core of the F–101 engine it has developed for the new B–1 bomber. At last reports, the companies were trying to get around the problem. The production, of course, and all the technology, would move to France. U. S. workers would be squeezed out of the project.

In commercial aircraft, the export of U. S. superiority is also accelerating.

Recently, the Boeing Company entered into an agreement with the Japanese government to develop a new wide-bodied *air bus*. Technology for the short haul airliner will come from Seattle; the work will be done in Japan by employees of three manufacturers—Mitsubishi, Kawasaki and Fuji.

Boeing has also entered into a joint arrangement with Aeritalia of Italy to build the 7X7 airbus, with part of the production to take place in Italy. When the agreement was made, Boeing President Malcolm Stamper declared: "They've got the money and we've got the smarts."

At the same time, United Aircraft is helping Mitsubishi produce *gas turbine aircraft engines*. The technology comes from East Hartford, Conn., an area with very heavy unemployment.

It is no secret in Seattle that 200 Italians are being trained there by Boeing. Eventually they will go home to tool up an Italian aircraft plant to produce short take-off and landing aircraft (*STOL*) for the European market. Until now, Boeing planes sold to European airlines have always come from Seattle.

America's largest manufacturer of private aircraft, Cessna of Wichita, Kansas, is working with Rheims Aviation of France. Of the 500 Cessnas expected to be sold in Europe this year, three-fourths will be built in France under a license agreement. This arrangement benefits Cessna stockholders but not Cessna's American workers.

Cessna's transfer of production abroad is not limited to France. It is producing planes in Argentina, as is Piper, which is building 150 executive and crop-dusting planes per year in that country.

Other commercial and military exports—with resultant job losses—are the production in Japan of the *Sikorsky S–61 helicopter* and the Pratt & Whitney *JT8D turbofan* engine for the C–1 U.S. military transport.

The implications of this ever-accelerating sell-off of American technology and the export of aerospace jobs is not only obvious to the workers involved, it has also aroused the concern of specialists in the field.

Dr. Harvey Taufen of the Hercules Corporation recently reported that Japan has paid about $90 million per year or $1 per capita "to get all the results of all the successful, proven technology in the world." As a result, Taufen says, "Japan's shopping has brought it one of the most incredible bargains in the world."

Supporting the Taufen claim, Nathaniel Brenner, marketing director for Coates and Welter Instrument Corporation, stated in Chemical and Engineering News last year:

"Technology is not an aesthetic pursuit like music or poetry, but rather a commodity of commercial value, with an investment cost that can be measured, a dollar value that can be computed and a clear market advantage for those who have it versus those who don't. . . .

"The product of this investment, like the product of the oil well or the factory, cannot be given away to foreign countries, by multinational corporations or any other channel without a clear, measured quid pro quo or the United States will suffer exactly what a corporation suffers that sells below cost for an extended period—bankruptcy . . .

"Anyone who is naive enough to believe that the Japanese or British governments permit foreigners to license their processes as freely as the U.S. does ours has simply never tried to negotiate these transactions."

This is the sad story of the export of the U.S. areospace industry. We have dwelt on this area in detail because it is a shocking account of the massive destruction being dealt to one of America's most advanced industries in terms of technology, highly skilled personnel and national security. Translate the losses being suffered in aerospace into all the other industries in America in terms of thousands of jobs and loss of technology and you can begin to comprehend the massive change that is overwhelming this country. No government or business studies include these facts.

There is also a further devastating effect. The recent devaluation—as the one in 1971—resulted from an international monetary crisis, with a run on the U.S. dollar. There is a direct relationship to the growth of the U.S. multinational firms abroad and the monetary crisis. American corporations and multinational banks have huge and increasing investments in foreign countries and they keep their American dollars there to expand their foreign holdings and often to avoid paying U.S. taxes on their foreign earned profits. There are now about $60 billion American dollars in Europe and about $20 billion American dollars in Japan. Only a fraction of these billions, moved with ease beyond the reach of central banks of governments, can cause serious monetary problems. By these currency actions, U.S. corporations and banks put profits ahead of patriotism, selling their country's currency in order to make swift profits for themselves.

It is against this background of multinational corporations acting in their own interests, for their own profits, that American working people and American businessmen and the American industrial system is being asked to perform a mission impossible:

Americans are told to seek jobs and help themselves. But their jobs are exported to other nations where multinational firms compete by producing within those nations and exporting from those nations to any part of the world their management chooses.

Americans are asked to improve productivity at home and keep labor costs down and expand exports from the United States. But the multinational firms expand their operations in other nations, often without regard to productivity or labor costs at home. The effect erodes U.S. exports and creates competition against U.S. exports to foreign countries. The firms also send imports into the United States from those countries.

Americans are asked to reduce trade barriers for expanded U.S. trade, but multinational firms use foreign trade barriers as a sword and a shield against U.S. trade expansion.

Americans are asked to understand that other nations have the right to curb U.S. investment in their country, to regulate the output of that investment in their country and to require U.S. firms to export from the foreign country. But if Americans suggest curbs for trade and investment they are told they would provoke a trade war. Meanwhile, other countries issue new regulations and erect new barriers at an increasing rate.

Americans are asked to pay taxes to help develop new technology for America's economic strength. But multinational firms are the largest exporters of that technology to other lands, where foreign nations regulate inflows of technology and its outflow.

Americans are asked to give tax breaks to U.S. firms to encourage them to stay at home and export. But the multinationals can and do take advantage of the tax breaks at home and abroad and still go abroad without expanding U.S. exports.

Americans are told to help improve the trade balance to strengthen the dollar and not adopt effective capital controls, but the nations of the world have regulated capital in increasing numbers. The multinationals meanwhile have more liquid assets available to speculate against the dollar than the world reserves available to governments.

The total effect of these conflicting objectives adds up to one well-known American labor term—"unfair."

EXPORT OF JOBS

The export of jobs is a fact for millions of Americans. Garment workers and aerospace workers, steelworkers and machinists, shoe workers and glass workers, chemical workers and electronics technicians, seafarers and stagehands, service workers and engineers, salesmen and teachers—all types of American workers have been affected. From the Mexican border to Singapore, from Haiti to Hong Kong, from Brazil to Yugoslavia, U.S.-based multinationals enjoy the advantage of U.S. tariff provisions, trade and tax laws which aid and abet these transfers. The companies also use foreign laws to expand abroad, and then claim U.S. jobs grow from the trickle-down effect.

The Tariff Commission reported to this Committee, "the multinational firms are neither minor employers nor a special case which can be analyzed independently of the national economy. They are the backbone of the demand side of the labor market, the firms which . . . have the biggest quantitative punch in terms of the numbers of people they hire . . ."

The Tariff Commission did not try to analyze job exports, but made some assumptions and provided some estimates. The report shows that two out of three possible assumptions would lead to the conclusion that between 400,000 and 1.3 million job opportunities were lost to America because of investment and trade changes in which the firms' activities were a factor.

No government survey of the overall impact of multinational firms has ever been attempted. Only foreign direct investments of some firms have been surveyed in part. These studies do not include all imports of the firms, licensing arrangements or other factors that affect the interchange. But they credit U.S. job expansion—from whatever cause—as the "proof" that benefits accrue to the U.S. economy.

But American job losses are not a theoretical problem. They are a fact.

Government reports show that U.S. firms spent in direct investment in manufacturing alone more every year between 1960 and 1972—starting with $1.4 billion in 1960 and rising to $6.9 billion in 1972. (See Table I). It was during this period that the United States lost its gains in trade—with imports, particularly of manufactured goods, rising much more than exports of manufactured goods.

During this period, direct investment expanded rapidly in other countries of the world in the manufacturing industries in which the U.S. trade position worsened. (See Table II) The multinational firms contributed to the economic strength of other nations and their exports to the U.S. This has resulted in massive losses of U.S. jobs and job opportunities in many kinds of manufacturing, as well as service and other jobs related to manufacturing.

Even a Commerce Department study showed a part of this picture.

Findings from the Commerce Department's "Special Survey of U.S. Multinational Companies, 1970," published in November 1972, reported on 298 U.S. firms with foreign affiliates. In manufacturing industries from 1966 to 1970, the report showed:

60.7% rise in manufacturing sales of the foreign subsidiaries.

52.9% rise in manufacturing sales within country of location.

77.5% rise in manufacturing sales to other countries, excluding the U.S.

129.4% rise in manufacturing sales back to U.S.

In 1970, about one-third (33%) of their foreign sales came back to the U.S.—up from 27.6% in 1966.

Employment figures in the report showed manufacturing jobs in these 298 firms' U.S. facilities rose 7.6%, while they increased 26.5% in their foreign subsidiaries—a rise of 450,000 jobs at home and 452,000 abroad. This development took place when U.S. employment needs were greater than before—from defense cutbacks, returning GI's adjustment to soaring imports and a growing labor force.

Government studies of direct investment do not point out that the industries in which direct investment has expanded rapidly are often the industries in which U.S. jobs have declined in actual and absolute numbers. The Commerce Department surveys merely highlight jobs within some reporting U.S. multinationals. They do not record actual overall job losses in the U.S.—often affected by the multinationals' competition with smaller firms at home and abroad or acquisitions of smaller firms at home and abroad.

In major industries at home, in which the multinationals are the key factors, U.S. Labor Department figures show substantial job losses between 1966 and 1972. These industries include transportation equipment, electrical equipment, non-electrical machinery. In transport equipment, the loss was 170,900; non-electric machinery 45,800, and electrical equipment, 75,700. That is a net loss of job opportunities in three of the key industries in which foreign direct investment is reported. Only in chemical and allied products did jobs in the U.S. increase by 40,000. (See Tables III and IV)

No matter how small the breakdown, or how large the overall figures, American jobs have been lost.

As the largest employers and producers in this nation, the claim of the multinationals that it would have been worse if they had not gone abroad makes one wonder how much worse it could have been. These firms have taken credit for and are still receiving benefits from all the growth and market size of the U.S. economy, from government spending and contracting, from the efforts of the government to spur the U.S. economy.

Since 1963, the AFL–CIO has emphasized its concern for the multinational problem. We seek regulation, not destruction. We seek fair trade, not less trade. We seek recognition of new reality, not old slogans for new problems.

We seek understanding of the 1970s, not cliches from 1929. We seek U.S. government policy in the interests of the people of the United States, not the private foreign policy of the multinationals.

THE HARTKE-BURKE BILL

The Foreign Trade and Investment Act of 1973 is a positive policy that puts the United States interest first. The Hartke-Burke bill revamps U.S. foreign trade, tax and investment laws to overcome growing problems of the export of American jobs, trade imbalances and an increasingly distorted U.S. economy. It is a bill to assure a healthy, growing industrialized America—providing jobs for its millions of citizens in modern industry in a changing world. It assures American taxpayers, consumers, workers and businessmen a fair set of laws for their country so that America can cooperate with other nations for the mutual benefit of all.

The world is still a world of nation-states. International action, in the future, will require policies of national governments. And, at present, there is the need for U.S. government policies to deal with the realities of the world economy, which are drastically different from the 1930s or even the 1950s. The Foreign Trade and Investment Act of 1973 is an effort to provide a framework for dealing, specifically, with the causes of America's deteriorating position in international economic relationships.

The Hartke-Burke bill would provide government regulation and restraint of the export of American technology and capital—regulation not elimination. It would remove the tax subsidies and other incentives that encourage U.S. companies to establish foreign subsidiary operations.

It would also set up a "sliding-door" limitation on most imports, except on those goods that are not produced here or that are in short supply—a "sliding-door" limitation, not a high wall to block out imports. Quotas would be related to the level of American production. In fact, imports would be guaranteed a share of the American market and would be permitted to increase as American production increases. But imports would not be permitted to flood American markets and quickly wipe out American industries.

President George Meany has summarized the AFL–CIO position in these words:

"We of the AFL–CIO seek a strong and growing American economy that is an integral part of the world economy. We are not isolationists and have no intention of becoming isolationists. We are convinced that the practical alternative to senseless isolationism is the adoption of realistic government policies to meet America's needs in the world economy of the 1970s.

"We know that a depressed American economy would not merely depress the condition of American workers and American business. It would also depress the economies of the rest of the world.

"A prosperous America is essential for the prosperity of the nations with whom we have continuing economic relationships. One of the things that is needed for a prosperous America is updated, modernized policies to deal with the realities of international trade and investment."

AFL–CIO STATEMENT ON MULTINATIONALS: APPENDIX A

American labor has cooperated and will cooperate to improve U.S. productivity. But labor costs and productivity alone do not explain the changes in America's position in international trade and payments. No amount of effort to improve productivity can be meaningful if U.S. firms merely transfer gains at home to foreign countries.

Frequently there are attempts to explain all of the deterioration in the U.S. trade balance simply in terms of differences in hourly wage rates or overall labor costs between the U.S. and other countries. But buyers do not purchase hourly wage rates—they buy products at a price. The price is importantly affected by profit margins, taxes, and such costs as raw materials and energy (electricity or coal, etc.) per unit, as well as the cost of labor per unit.

Foreign trade economic competition does not center on prices alone. Product design, for example, is of great importance in the export and import of many items. Other non-price factors in world trade include patent and licensing arrangements and the servicing of foreign purchased equipment and government policies of every nation.

The labor cost per unit, therefore, is one of several different economic factors. Moreover, the unit labor cost is the result of productivity (output per manhour) and the hourly compensation of employees, so that the combination of high wages and high productivity can result in low unit labor costs. Indeed, America's traditional prowess in world trade was largely based on high wages, combined with high productivity—on technology, efficiency of operations, manpower skills, large volume of output and a highly educated population—as well as on the availability of raw materials and sources of energy. However, much of America's technology and know-how has been exported.

As Professor Peggy Musgrave of Northeastern University explained in a paper prepared for the Joint Economic Committee last year, "It should be recognized that the economic and political effects of maintaining a share of foreign markets via foreign production are very different from doing so via domestic production and export. The principal difference lies in the effect on labor productivity and shares of national income. Foreign investment may enhance the private profitability of U.S. capital, but it is likely to reduce the real wage to U.S. labor as well as the Government's tax share in profits."

New factors, like the internationalization of technology, the multinational corporations, managed national economies with subsidies for exports and barriers to imports, have changed the trade relationships of labor rates and unit costs in recent years.

Illustrative of this is the fact that the pace of productivity advance in the American economy in 1947–1971 shot up rapidly to a yearly rate of 3.2% per year in 1947–1971 as against 2.2% per year in the previous 28 years. But at the same time, the transfer of American technology and know-how contributed substantially to the sharp advance of productivity in other countries, particularly since the rise in those countries started from a much lower level.

There has been a sharp change in the 1960s and 1970s, as the transfers accelerated. In many industries and products, the American lead in productivity—which enabled high-wage U.S. industries to successfully compete from the U.S. and within the U.S. with foreign imports and with exports to foreign countries—has been reduced or eliminated.

Where U.S. firms have transferred American technology and know-how and capital—and therefore productivity—to their foreign subsidiary plants, efficiency has been improved abroad, not in the United States. The investors in the firms benefit, but the U.S. economy and the U.S. society does not benefit in full measure.

Multinational corporations have substantial portions of their assets in facilities spread through numerous countries. They can manipulate their production and sales, internationally, with U.S. technology. They can manipulate the location of their operations, depending on labor costs, taxes and foreign exchange rates. They can juggle exports, imports, prices, dividends and currencies—from one country to another, within the corporate structure.

With plants and other facilities spread through numerous countries, multinational firms can and do juggle the production of components and assembly operations to achieve maximum use of low-wage labor, using modern U.S. technology and operating at or close to U.S. productivity levels. This makes the details of costs and productivity difficult to trace.

Fortune magazine reported in September 1968: "When it (the multinational company) operates in many different markets with varying labor conditions, market demands, money market rates, tax laws, etc., the corporation finds multiplying opportunities to buy cheap and sell dear if it can closely coordinate all parts of its operation. Carrying multinationalism to its logical extreme, a corporation will concentrate its production in the area where costs are lowest and build up its sales where the market is most lucrative. Thus, some U.S. electronics manufacturers are using plants in the Far East to make components for equipment sold in the U.S. market and the apparel industry is, for the first time, hinting at farming out some of its production." By 1972, as electronics, apparel, shoes, calculators and advanced equipment poured into the U.S. from some of the lowest wage countries of the world, America's trade deficit was worsening from the swift interchange of multinationals—buying cheap abroad and selling dear at home.

Fortune in 1968 also pointed out that multinational firms transfer goods and money from one country to another for the corporation's tax or income advantages—not necessarily in a way related to labor or other costs of producing goods or to the needs of any nation: "The multinational firm can also adjust prices on these intra-company sales according to a deliberate plan. For example, if a country is in foreign exchange difficulties, it may earmark scarce exchange for imports but not allow dividends to be remitted abroad. A multinational company could simply 'take out' its dividends by raising prices on intra-corporate sales proportionately. Transfer prices are also a useful device for keeping down the overall corporate tax liability. Subsidiaries can be instructed to set high prices on intra-corporate shipments to high-tax countries, low prices on those to low-tax countries."

By 1973, the Tariff Commission verified the existence of such arrangements in long-range planning in such international systems arrangements for the more sophisticated firms. The details of labor cost and productivity factor is hidden within over-all corporate accounting systems, not revealed to the public or to government experts.

The few studies that have been made, however, tend to show that the U.S. productivity and labor cost advantage has been transferred through operations of multinational firms.

The Tariff Commission's 1973 report on direct investments of some multinational firms in seven countries in relation to overall U.S. productivity showed that the U.S. workforce generally is not laggard in productivity or unit labor costs the report says.

* * * * *

The Organization for Economic Cooperation and Development's publication, *Economic Outlook* for December 1972, shows American unit labor costs have risen less rapidly than in many competing nations in the last few years. But those nations have continued to improve their trade surplus with the U.S. and continue to attract American investments and expand existing American investments in their countries by the most advanced of all American industries.

The Tariff Commission report indicates that hard-working foreigners on assembly and production lines abroad do not explain all the differences in labor cost factors. Foreign subsidiaries of U.S. multinationals "tend to employ more nonproduction personnel than most foreign firms. U.S. companies are famous for being top-heavy with management and scientific technological manpower."

These general statements tell only a tiny part of the story. When a firm licenses production abroad, no data are reported on the productivity impact, because there have been no reports required in detail that could reveal these figures. What some companies have done is to transfer parts of production to low-wage countries where the cost advantage is both in low wages and high productivity. The result of this shows up in the Commission report on the experience of Mexico and Brazil, where U.S. firms have increasing investment—behind the closed economies of those two low-wage countries.

Nor have the transfers of production to other countries improved the well-being of the people of those countries sufficient to create enough markets for American exports—even as income rises in foreign countries. There is some indication of this in the Tariff Commission study: "In setting wage rates, the companies almost invariably approximate local standards—sometimes paying a little more, sometimes a little less—but they always show greater productivity than local firms, so that unit labor costs tend to be much lower than for all firms in the host country. Theoretically, the higher productivity of the foreign worker in the NMC-owned plant abroad should justify a higher wage than the national average for his trade or industry."

This and other statements in the report suggest some reasons that foreign income levels of ordinary working people have not advanced rapidly enough to meet the needs of world market for the growth of consumer's purchasing power to buy the products that technology and productivity can turn out.

Thus the American worker is told to improve productivity so that his wages can improve, but the American firm abroad does not—for a variety of reasons—even pay the lowest wage workers in the world as much as their gains in productivity. Thus no amount of attention to productivity and unit labor costs will solve America's problem as long as multinational firms and the world's governments operate differently with different rules. The advantage is to the firms' managers and stockholders in the short run—but to no one's advantage in the long run.

TRADE EFFECTS

Therefore, while every dollar invested abroad and every transfer of technology have not had adverse impacts on the U.S., much of this change has resulted in the deterioration of the U.S. trade balance.

In her paper for the Joint Economic Committee of the Congress, Professor Peggy B. Musgrave also explained that:

"It is possible that production by U.S. affiliates abroad, particularly in manufacturing, may serve to displace U.S. exports and even domestic sales in the United States. This displacement effect is the more likely since those corporations accounting for the bulk of manufacturing investment abroad are also major exporters. Moreover, sales of manufacturing subsidiaries abroad are now two to three times the level of U.S. exports of manufactured products."

What finally shows up as U.S. exports and

imports is, to an increasing degree, the result of intra-corporate decisions, made by the private managers of U.S.-based international companies for the private advantage of the firm.

A multinational corporation can produce components in widely separated plants in Korea, Taiwan and the U.S., assemble the product in a plant on the Mexican side of the border and sell the goods in the U.S.—perhaps with a U.S.-brand name. Or the goods produced in foreign subsidiary plants are sold in foreign markets, in competition with U.S.-made products.

The effect on trade from the operations of multinationals has been only partially explored. But, even the Tariff Commission supports these views. The report states that there is "prima facie evidence of an erosion of U.S. markets by foreign sales of MNC affiliates abroad."

This very minimal report of the Tariff Commission is based on theory and estimates. We think the case is clear from other Commerce Department data on direct investment and trade. As this statement indicated earlier U.S. firms invested in foreign factories and equipment five times more in 1971 than in 1960. They expanded abroad every year, but in 1960 it was $1.4 billion and in 1971 $6.8 billion. Most of these outlays were in chemicals, machinery and transportation equipment (autos, aircraft, etc.). Their sales abroad by U.S. companies' foreign affiliates increased very rapidly—more rapidly than sales from the United States. The U.S. lost its share of export markets (not included exports to the U.S.) during this period. The decline was great in chemicals—from 29.6% to 19.9%, in electric machinery from 28.2% to 21%, in non-electric machinery from 32.7% to 25.5%, and in transport equipment from 33.2% to 29.5%. In other manufactures it went down from 17.6% to 12.2%.

U.S.-based multinationals accounted for 10% of France's exports in 1970—which have been improving—and provided $3.6 billion to the French balance of trade, according to former Ambassador Arthur K. Watson in *Commerce in France, 1972*. Studies by the Council of Americas in the 1960s say that U.S.-based multinationals account for 40% of Latin America's exports. Many of these Latin American imports into the U.S. as well as those from Japan, Korea, Canada, Taiwan, Germany, France, and other countries now bear American brand names—often produced by U.S. firms' subsidiaries or licensees abroad.

In some of the nations where U.S. direct investment and licensing have expanded rapidly, exports shot forward in the 1960s more rapidly than U.S. exports. In manufactured goods, Germany's exports rose over 200%, French exports rose 160%, Belgium and Luxembourg over 200%, the Netherlands over 200% and Italy 450%. Similar Japanese manufactured exports rose almost 500%. During this period U.S. exports rose 123%.

Elsewhere, the report seems to go much farther:

"An immense amount of world trade is generated, outside the United States by the MNCs. As an indicator of how important these flows are, available data show that majority-owned affiliates exports to countries other than the United States were an estimated $33 billion, compared with exports to the United States of $10 billion and local sales of $118 billion" (page 207).

Since that estimate—$43 billion worth of non-U.S. trade in 1970—does not include output from plants that were only partially owned or output from licensees in countries like Japan, it is clear that U.S.-based multinationals create more exports from their foreign operations—including exports back to the United States—than the United States exports. Therefore, efforts to expand exports from the U.S. meet increasing competition not only from foreign firms, but also from U.S. firms abroad.

In many industries, these world-wide shipments of multinational are almost totally within a single corporation's world-wide network. For example, the Tariff Commission report included some estimates that virtually all of the U.S. trade of farm equipment and transportation equipment was from one part of the U.S. multinationals' corporate network to another part. This is not competitive trade because in the sense that most Americans think about competition.

Appendix B: Low Trade Barriers at Home—High Barriers Abroad

The U.S. is now confronted by complex governmental economic arrangements in other countries to spur exports (direct and indirect subsidies, etc.) and to bar or hold down imports (direct or indirect barriers). Examples include Japanese quotas, licenses in European countries to import specific products, and laws in many nations which require foreign subsidiaries to produce a certain amount of goods for export, as in Mexico, Brazil and Spain.

Many U.S. firms with foreign operations emphasize the need to reduce U.S. trade barriers, but seldom tell the U.S. public about their use of these and other foreign barriers as a sword and a shield against the U.S. economy from abroad. Details and facts are labeled "foreign policy confidential" or "business confidential." Most Americans therefore cannot get the facts, while the firms cry "trade war" or "netaliation" whenever U.S. trade restrictions are proposed.

In 1970, for example, there were full page advertisements by U.S. firms which raised the threat of a trade war if the proposed trade legislation was passed. Many of the companies which signed the ad were even then operating behind complex barriers to trade erected by nations throughout the world. In Japan, for example: Caterpillar Mitsubishi was producing in 1970 behind a multiplicity of administrative controls on imports . . . and a licensing system covering all imports. It produced in Japan for the Japanese market. New Caterpillar plans to send a small tractor, made by Caterpillar Mitsubishi to the U.S.

IBM was one of the few firms with 100% ownership in its Japanese subsidiary in 1970. Computer exports from the U.S. met barriers to trade—requiring import certificates for quotas from MITI, according to *Forbes* magazine in May of 1971.

Chrysler-Mitsubishi was producing the Dodge Colt in Japan for the West Coast market of the U.S. in 1970, yet most U.S. cars still cannot easily surmount the maze of barriers into Japan. The list could go on indefinitely, but in 1973, the issue is still not solved. As company after company met barriers to trade from the U.S. to Japan, it merely found a Japanese partner, a Japanese licensee or some other Japanese source to produce in Japan—behind the barriers. Meanwhile it claimed publicly that U.S. labor costs were too high, facing the transfer. The route to Japan is often virtually closed even in 1973. Quotas still exist for many products, including integrated circuits and leather. But the route to the U.S. is still wide open.

In Europe, a business magazine *Vision* reported in April 1971 that "The major reason for manufacturing in Europe is that European governments prefer to place orders with a local U.S. subsidiary rather than going in for straight imports." Country after country has non-tariff barriers to trade within the Common Market. Yet, U.S. companies which adjusted to the European government preferences screamed "trade war" when Congress tried to act in the U.S. interest in 1970.

Recent reports show that the situation has grown worse in many areas. In the so-called non-industrial countries, like Spain, Brazil and Mexico, the law requires production in those countries for local sales and requires exports from those countries by foreign investors who produce there. In December, 1972, the *New York Times* reported that auto manufacturers were required to have "only 50% of their production with Spanish made components provided that the original investment is more than $158 million of fixed assets and two-thirds of the production is exported."

The Mexican government announced in October 1972 that foreign investors would still be required to fit their investments into the Mexican government's national policy. For example, President Echeverria on October 23, 1972 issued an announcement on automobiles making it the "obligation of automobile manufacturers to employ a minimum 60% of Mexican-made components in car production."

The Brazilian government recently decreed that foreigners who wish to invest must bring into Brazil their fully-operating plants that have been producing efficiently in a developed country before the Brazilian government will permit investment. Then the production must be exported from Brazil except for the amount the Brazilian government allows to be sold in the Brazilian market under quota.

The list could be longer, but much of the information needed is available only to companies and governments—not to labor unions. But the facts are clear: U.S. firms, producing in other countries, for reasons that seem pressing in their own interest, expand in those countries behind foreign trade barriers and follow those countries' rules requiring exports to the U.S. Thus they operate as both a sword and a shield against expansion of U.S. trade.

Appendix C: U.S. Investment Abroad Is Regulated by Foreign Countries

Trade rules and regulations are only part of the story of America's changing economic circumstances as foreign countries regulate investment in their countries. Foreign nations are sovereign states. They have the right to pass new laws. U.S.-based firms must meet those regulations abroad.

When Mexico announced a 17-point program for foreign investors, the *New York Times* headlined its story on November 24, 1972, "U.S. Investors Accept Mexico's Policy." The story began, "The Mexican Government is making it clear that it will want greater Government participation with foreigners who want to invest here. But after a month of major policy statements to that effect, key American business spokesmen say they still believe Mexico remains an attractive investment possibility." A description of the program is attached in Appendix I. There were no full-page ads in U.S. newspapers about the problem, certainly no ads suggesting "retaliation" against Mexico.

Likewise, when Canada decided to screen foreign investments last year, no outcry greeted the move.

Australia recently announced new curbs on foreign investors. *Business Week* headlined its story, "Australia: the picnic is over for foreign business. Australia, with $12 billion foreign investment, one third from the U.S., has decided to make sure it owns its own future." *Business Week* reported that "U.S. multinational companies with interests in Australia profess to be unworried—although they are watching the new government carefully. The concern over local participation is reasonable and we welcome it," says a spokesman for American Metal Clima, Inc. AMAX has a 25% share of the vast Mt. Newman iron ore fields in Western Australia, where development is expected to cost $600 million.

American Smelting told an Australian Senate select committee last year that Australian

participation in its holding company had grown from 5% to 39% in the past 20 years. "And the company has no U.S. directors," a spokesman adds. (*Business Week*, January 20, 1973).

Time magazine reported on November 13, 1972, "Country after country is imposing or contemplating restrictions on American investment that it was once pleased to get."

Every country in the world, it seems, has a right to have a sovereign government, to change its regulations on investment from abroad or to abroad, but any suggestion that the U.S. change its rules is greeted by howls of dismay by the U.S. multinationals. Multinationals have not emphasized these problems for the U.S. because they oppose new U.S. legislation. But for the U.S. not to act, in the face of this sweeping change, is to make the American economy a helpless giant, pummeled by adverse changes.

Companies abroad have to conform to local rules, of course. Among the more enjoyable rules are investment incentives through taxes. Some nations have tax free holidays to attract investors, others have special programs for areas with high unemployment.

The U.S. has various investment incentives, too, just as it has regulations. But every proposed restrictive change in U.S. law is opposed by the same companies that have been able to adapt to the massive changes now occurring around the world. Each company has a different problem—and each company represents its individual view to the Congress. But the U.S. economy at home is not treated as an entity in their statements, except as an extension of their multinational corporate interest.

The American workingman believes—as with other nations—that we have the right to own our own future.

APPENDIX D: TECHNOLOGY REGULATIONS

U.S. policies have encouraged the export of American technology, investment and jobs, while foreign countries have tried to encourage the entry of technology, as well as the promotion of production and full employment within their borders. International as well as domestic economic relationships today are strongly influenced by political and government decisions.

Perhaps the best description of the mission impossible for technology change is in a statement by a West Coast businessman, Mr. Nathaniel Brenner, in *Chemical and Engineering News*: "For many years our advanced products enabled us to compete in international markets despite high prices (and high wage rates).

"What has happened in the 1960's and continues is that *American corporations*, via licensing agreements, foreign plant construction, and other multinational arrangements, have given away for a very small portion of real cost and value, this advanced technology and with it, the jobs it created. When a multinational corporation licenses a product abroad, it gives away the technology created by Americans educated at public expense, and the American jobs which produce that product, for the 5 or 10% profit represented by the license fee or return on invested capital. Result—the American worker loses a job, the U.S. loses an export product and becomes an importer of that product, but the corporation still nets 5 or 10%. Result—unemployment plus balance of payments problems. Naturally, the foreign producer can sell for less—he hasn't had to invest in the education, the R&D, or the wages which support the 'American system'."

High technology is not solely the property of sophisticated, capital-intensive industries. It is also critical to labor-intensive industries which one does not usually consider as utilizing advanced technology. For example, the American textile industry is among the leaders in applicants for new patents. The garment industry now includes laser beams to cut garments. The glass industry has new methods of drawing glass. And agricultural production is constantly improved by scientific development. U.S. rice production, for example, has mechanical and chemical technology for planting, washing and processing rice that depends on scientific advances. Chicken farming became an important issue in the 1960's when America's technological know-how made it possible to freeze and ship poultry in mass-produced quantities.

There is no measure of this change. The recent Tariff Commission report on multinational firms merely shows that returns to the U.S. are 10 times greater than the payments from the U.S. in royalties and fees. This soon shows up in exports to us. The Japanese export surplus with the United States can be accounted for in part by the fact that American firms, unable to invest in Japan, export their technology and license their American brand production to the Japanese for sale in the U.S. market, thus more and more products are made in Japan with a U.S. label.

APPENDIX E: TAX BREAKS THAT PROVIDES NO ADVANTAGE TO THE UNITED STATES

The multinational firms and many analysts have objected to the tax proposals of the Foreign Trade and Investment Act of 1973. In our view, a healthy United States economy, not the short-run advantages of multinational firms wherever they may be, is the goal of legislative proposals. The Hartke-Burke bill would not repeal the many foreign advantages available. It merely seeks to rid the U.S. law of gimmicks.

The elimination of tax subsidies for corporations investing overseas and profiting from the variety of gimmicks is a major goal of the bill. The tax deferral gimmick, which permits U.S. corporations to pay no U.S. income taxes on the profits of their foreign subsidiaries until such profits are brought home—which may be never—and the foreign tax credit scheme, which permits corporations to credit taxes paid to foreign governments, dollar for dollar, against their U.S. liability, should be ended. These loopholes cost over $3 billion in annual tax revenues. And more important these provisions are contributing to the export of American jobs, the erosion of the nation's industrial base and the blighting of American communities. This is the policy of the AFL–CIO—tax justice for America.

A third gimmick, the Domestic International Sales Corporation (DISC) permits corporations to create export subsidiaries in order to defer taxes—perhaps indefinitely—on export income. Its revenue cost to the U.S. is currently some $200 million per year and the loss is expected to rise continually. By 1980, DISC is estimated to cost $600 million in revenues foregone. Yet no evidence has ever been presented in support of the contention that this program would have any beneficial impact on the nation's disastrous position in world trade. In fact, to demonstrate how futile that change was, the report of the National Industrial Conference Board in August 1972 shows that only six executives of 105 responding indicated that they expected any change in their corporate strategy because of DISC—or devaluation or other government actions. The article is attached as Appendix J. The Commerce Department's *Survey of Current Business* asked U.S. firms with foreign affiliates to estimate the effects on their spending abroad because of economic policy measures started in August 1971. 305 out of 325 U.S. companies responded that there were "no indentifiable direct effects on their affiliates' capital expenditures." The remaining 20 companies reported a mixture of effects, in some cases lowering and in other cases raising planned expenditures. In sum, it appears that other factors, such as anticipated demand, profitability, and availability of financing have played the more identifiable role in investment decisions." (September 1972, p. 18)

While the U.S. exports and foreign investment decisions get no realistic advantage, the firms get a tax break. The attached newspaper ad says "Now American exporters can help the government by not paying all their income taxes." Most Americans would like to be so helpful.

APPENDIX F: CAPITAL CONTROLS

Most Americans are unaware that most countries of the world have far more extensive controls on capital flows than the United States. U.S. multinational firms and banks complain about United States controls, but accept and adjust to the rising number of controls in other countries. As other nations extend controls already available under their laws or put new controls into effect to try to maintain their national economic health, the United States dollar suffers from a double effect: U.S. capital controls are weak or out of date, and the Administration has relayed those that are in existence. Recently, the Administraton announced it would phase out capital controls on foreign investment on interest equalization. Meanwhile, other nations act to influence the flows of money that might flood their economies or rush from their countries.

So many changes have occurred in 1973 that no complete list is available. The attached list (see Appendix K) includes only controls adopted in 1971 and 1972 by the world's industrial countries, members of the Organization for Economic Cooperation and Development. These examples show how commonplace controls are whenever foreign nations seek to protect their economies. The February 25 *New York Times* reports that Japan has exchange controls despite her strong reserves, despte her trade surplus and her industrial strength.

The major trouble, by far, is that American corporations and banks now have huge and increasing investments in foreign countries. They keep their American dollars there to expand their foreign holdings and, frequently, can avoid paying U.S. taxes on their foregn-earned profits.

In the summer of 1971, for example, some of these U.S.-based multinationals—as well as foreign companies and speculators who hold dollars—became worried about America's growing import-export deficits and the value of their American dollars. They began dumping dollars and buying German marks and other currencies. In cold fact, U.S. corporations and banks put profits ahead of patriotism, selling their country's currency in order to make swift profits for themselves.

Similar developments occurred in early February 1973, with the dumping of billions of dollars to buy marks and Japanese yen.

The operations of these multinational corporations, international banks and big speculators have become so powerful that they can move billions, with ease, beyond the reach of the central banks of governments. Frequently, a telephone call is sufficient to transfer huge sums of money from one country to another.

The *Wall Street Journal* of February 13, 1973 (copy attached), reported on the 930-page study by the U.S. Tariff Commission. The newspaper reported:

"Multinational corporations control such vast quantities of money that they can precipitate international monetary crises by moving only small portions of their funds from country to country, a government study concludes.

"The big companes and banks can outgun even the world's central banks in international currency dealings, the massive study by the U.S. Tariff Commission contends . . .

"In assessing the aims of big companies in currency crises, the report offers two possible conclusions: either that the multina-

tionals 'react protectively' with moves to protect the value of their assets or, alternatively, that most multinationals 'hardly react at all, while a small minority, capable of generating heavy, disruptive movements of funds, do so.' The study said the latter group includes companies that may actually 'speculate' in the sense of betting on exchange-rate changes in hopes of a swift profit."

Regardless of motive, these actions taken for the private advantage of corporations and banks have undermined the world position of the American dollar.

These actions are not regulated by the U.S. government. And the multinational firms and international banks go their own way, juggling production and prices and currencies across national frontiers.

So in 1971 and once again in 1973 the speculators—both U.S. and foreign—gambled and won. They made their big profits, forced the U.S. to bail them out, the U.S. currency suffered another blow and the rest of America will pay the price.

The recent devaluation adds somewhat to inflaton at home but will have little, if any, beneficial effect on America's deteriorating position in the world economy. The only way to cure the basic problem is for the U.S. government to adopt and vigorously pursue a new policy on international trade and investment.

Both devaluations were actions in crisis. They are not a policy. What is urgently needed is a comprehensive policy of capital controls to meet America's needs in the world of the Seventies.

CURRENCY CRISES CAN BE EASILY TRIGGERED BY MULTINATIONAL FIRMS, U.S. STUDY STATES

WASHINGTON.—Multinational corporations control such vast quantities of money that they can precipitate international monetary crises by moving only small portions of their funds from country to country, a government study concludes.

The big companies and banks can outgun even the world's central banks in international currency dealings, the massive study by the U.S. Tariff Commission contends. And though the study absolves most multinational concerns of "destructive, predatory motives," in their currency dealings, it says that much of the speculative money surge during currency crises, such as the current turmoil in exchange markets, stems from the multinationals.

THE "LION'S SHARE"

The 930-page study of the economic impact of multinational concerns on trade, investment and employment was made by the Tariff Commission at the request of the International Trade subcommittee of the Senate Finance Committee. It's certain to add fuel to the growing debate in Congress on the effects of the multinationals, which have been under attack by organized labor as "exporters" of U.S. jobs and technology.

The study estimates that some $268 billion of short-term liquid assets were held at the end of 1971 by "private institutions on the international finance scene," and that the "lion's share" of this money was controlled by U.S.- based multinational companies and banks.

The $268 billion, the study reports, "was more than twice the total of all international reserves held by all central banks and international monetary institutions in the world at the same date." It adds: "These are the reserves with which the central bank fight to defend their exchange rates. The resources of the private sector outclass them."

Due to the immensity of the multinationals' assets, "it is clear that only a small fraction . . . needs to move in order for a genuine crisis to develop," the Tariff Commission concludes. This money "can focus with telling effect on a crisis-prone situation—some weak currency which repels funds and some strong one which attracts them." That's what has happened in the past two weeks as speculators dumped dollars and bought German marks and Japanese yen in hopes of profiting on future changes in their exchange values.

Since only a "small proportion" of the multinationals' money is needed "to produce monetary explosions," the study says, "it appears appropriate to conclude that destructive, predatory motivations don't characterize the sophisticated international financial activities of most multinational corporations, even though much of the funds which flow internationally during the crisis doubtlessly is of multinational corporation origin."

TWO POSSIBILITIES

In assessing the aims of big companies in currency crises, the report offers two possible conclusions: either that the multinationals "react protectively" with moves to protect the value of their assets or, alternatively, that most multinationals "hardly react at all, while a small minority, capable of generating heavy, disruptive movements of funds do so." The study said the latter group includes companies that may actually "speculate" in the sense of betting on exchange-rate changes in hopes of a swift profit.

The study found that U.S. concerns invest abroad primarily to reach new markets, rather than to find lower-cost production. The search for low-wage labor is a "secondary" consideration except in a relatively few industries, including consumer electronics, footwear, toys and apparel, it says.

The study doesn't resolve the question of whether multinationals have caused major job losses in the U.S., as American unions contend. It presents three alternative explanations—two of which will please unions and one which companies will like.

The commission estimates that the presence of American-owned plants abroad represents a net loss of 1.3 million jobs in America if it's assumed foreigners would otherwise import the plants' entire output from the U.S. If foreigners imported only half of such output, and produced the rest themselves, the job loss would be calculated at 400,000. A third set of quite different assumptions produces an estimate that the multinationals have produced a net gain of roughly 500,000 jobs in the U S.

The study concludes that the multinational corporations "played no role" in the sharp deterioration of the U.S. balance-of-payments position during the late 1960s.

APPENDIX G: SOME EXAMPLES OF MULTINATIONAL FIRMS TEXTRON, INC.

Textron, Inc., the 72nd largest industrial corporation in the United States, had sales in 1971 of some $1,604 million. With assets of $973 million. Textron employed some 62,000 people worldwide in 1971.

Data obtained from *Moody's 1972 Industrial Manual* reveals that from 1965 to September 1971 Textron bought or acquired controlling interest in some 32 companies. Textron breaks its industrial products into four basic groups:

Group	1971 sales (thousands)	Percent of total sales
Aerospace	$556,559	35
Consumer	499,356	31
Industrial	311,096	19
Metal products	236,702	15
Total	1,603,713	100

Partial list of companies and products by group:

Aerospace:

Bell Aerospace—rocket engines, missile and spacecraft systems, vertical lift aircraft, aircraft landing systems, etc.

Bell Helicopter—Military and commercial helicopters.

Dalmo Victor—Electromagnetic defense systems.

Consumer:

Gorham—Sterling, china, crystal, etc.

Eaton Paper—Stationery, etc.

Homelite—Power tools, etc.

Polaris—Snowmobiles, parts, etc.

Sheaffer Pen—Writing instruments.

Maico—Hearing aids.

Shuron/Continental—Eyeglasses, optical equipment.

Speidel—Watchbands, jewelry.

Talon—Zippers, buttons, etc.

Industrial:

Burkart/Randall—Auto parts, natural and synthetic cushion material, plastics, etc.

Campbell, Wyant and Cannon—Automotive engines and die cast parts.

Fafnir—Bearings.

Fanner—Abrasives and grinding wheels.

MB Electronics—Measurement instruments, digital control systems.

Spencer Kellogg—Chemicals and oilseed products.

Sprague—Gas meters, containers and fittings.

Walker/Parkersburg—Raceway systems, pre-engineered metal buildings.

Metal Products:

Bostitch—Staplers, staples, etc.

Bridgeport Machines—Milling machines.

Pittron—Heavy duty rolling mills, castings, etc.

Jones and Lamson—Lathes, grinders, etc.

According to Moody's I.M., Textron operates plants in the following countries:

Country	*No. of plants*
Australia	4
Belgium	1
Canada	12
England	4
Germany	7
Hong Kong	1
Italy	1
Luxembourg	1
Mexico	1
Netherlands	2
N. Ireland	1
Puerto Rico	1
Spain	1
Switzerland	1
Foreign plants (1971)	38

"MADE IN THE WORLD—BY PEOPLE"

"That's the stamp we'd like to put on our products. And the one we'd like to see on everybody else's. Because at Textron we believe we should think in terms of one, worldwide economy."—Wall Street Journal, December 4, 1972.

Nice talk from a company so dependent on United States taxpayers' money that it consistently ranks in the top 15 defense contractors.

Textron, Inc.'s position in the Pentagon's list of the 50 top defense contractors:

Year	*Rank*
1967	11
1968	13
1969	16
1970	13
Contract volume (in millions)	
1968	$501
1969	428
1970	431

"The Pentagon's listing of top defense contractors for fiscal 1970 reflects the declining fortunes of many aerospace companies.

"Not all aerospace companies were losers, however. Textron, Inc., whose Bell Aerospace Corp. subsidiary manufactures the widely used UH–1 helicopter . . . awards rose from $428 million to $431 million."—Business Week, November 14, 1970.

"Textron's biggest money earners continue to be consumer products like watchbands (Speidel), snowmobiles (Polaris) and chain saws (Homelite). But against all odds, Textron's aerospace division showed no decline at all, as growth chiefly in Minuteman strategic systems offset lower helicopter sales (Bell).

"Textron has turned its attention overseas. 'We're not going to Europe to try to do something big to get out from under the Justice Department. We're not out to acquire big companies or basic industries or to be the biggest employer in a major city. We're starting small with $10-million to $20-million companies . . . we need to become a multinational company, a planetary corporation in this decade.' Textron President, G. W. Miller."—Forbes, December 15, 1970.

"Miller thinks of Textron as a small company, despite the $67 million it earned in profits last year on $1.6 billion in sales and $976 million in assets.

Miller says, 'I don't think there would be an objection to Textron's strengthening itself through acquisitions to participate in the American or world economy.'

'We're a producing company,' he says, 'and we're looking at a trend where the U.S. is less and less a producing country. It's a service country. So in a sense we have some skills that are not really going to be required in the major growth pattern in the U.S.'

'We're a long way from being a broadly based transnational company,' he says, 'but our ambitions lie that way.'

So far, Textron's foreign commitment is small . . . But that commitment is growing. For instance, Textron paved the way for the entry of its Bostitch subsidiary into the Eastern-European market.

But Miller has no intention of simply extending Textron's domestic business overseas. He expects to acquire new lines, based in Europe, that will operate on a worldwide scale."—Forbes, September 15, 1971.

ITT

(From Annual Report, 1970)

". . . our policy of diversified activities carried on in various important economies around the world helped make us resistant to the cyclical pressures of any given area."

Banks and other fiduciaries as a group are the largest holders of ITT common stock and at the end of 1970 held more than 45% of . . . outstanding common stock. The 30 largest banks in the nation held 23 million shares.

392,000 employees.

". . . in every instance . . . management has brought competitive conditions and strengths to the industries we have entered."

Divisions and subsidiaries

1. Telecommunications

ITT World Communications, Inc.
"our leading Spanish company"
"one of our French companies"
"our principal Italian company"
"our Belgian company"
"ITT's European laboratories"
"our Puerto Rico telephone operating subsidiary"

2. Industrial Products and Consumer Products

Automotive, railroad, aviation, communication, electronics, lighting, building, chemical, and refining.

Radio, TV, phonographs, tape recorders, refrigerators, home freezers, and household appliances.

ITT Intermetall—Germany.
ITT Thompson Industries—Mississippi.
ITT Nesbitt—industrial heating and air conditioning—U.S.
Industrial Products Group—Europe.
Alfred Teves Gmbh—Germany—auto disc brakes.
Stenberg—Flygt AB—industrial pumps.
Naples—"components factory".
Nuremberg components factory".
"Semi conductor division"—England.
"Leading German company"—color TV picture tubes.
EUROSET TC: Austria, France and Germany.
ITT Consumer Products—Europe.
Graetz radios—Germany.
Graetz radios—England.
Manufacturer of consumer radios—Zambia.

3. Consumer and Business Services

ITT—Avis (itself and international).
ITT—Canteen Corp.
"Several new gourmet restaurants to its existing group."
ITT Grohe—Europe: plumbing fixtures.
ITT Blackburn—(U.S. ?) underground electrical power connector.
Grinnell Corp.—sprinkler systems and pipe fittings.
ITT—Continental Baking.
Morton Frozen Foods Division.
Hostess snack cakes:
"A number of European food and snack companies entered ITT System in 1970."
Gwaltney, Inc. of Virginia—Smithfield Ham.
ITT Levitt:
Levitt Multihousing Corporation:
"Building systems subsidiary"—Battle Creek.
"Mobile modular housing—West Coast.
ITT Levitt Development Corp.—recreational properties:
ITT Sheraton Hotels.
ITT Service Industries Corporation APCOA.
ITT Publishing Activities:
Howard W. Sams & Co. Inc.
Bobbs-Merrill Company Inc.
ITT Educational Services, Inc.
Pegier—French business school complex—direct education.
ITT Data Services:
Sweden, U.K., Brazil (2).
Diversified financial services companies 20 operating units.
ITT Aetna, parking facilities, taxicabs in D.C., motels.
ITT Thorp.
Industrial Credit Company.
ITT Hamilton Life.
ITT Midwestern Life.
ITT Life of New York.
Abbey Life of Canada.
Monitor Group—Canada (fire & casualty ins.).
ITT Hamilton Mgmt. Corp.—mutual funds.
"Financial services"—Great Br., Ger., Italy, Netherlands.
The Hartford:
Hartford Fire Insurance Company.
Special Accounts Insurance Department.
Group insurance to 11 labor unions.

4. Natural Resources Group

ITT Rayonier Inc.—chemical cellulose, wood pulp.
Pennsylvania Glass Sand Corp.—silica & clay products.
Southern Wood Piedmont Co.—fire & weather resistant lumber.

5. Defense—Space

Federal Electric Corporation.
ITT Arctic Services, Inc. DEW line BMENS.
White Alice communication System.
"ITT's French Laboratory Co."—ground surveillance radar.
ITT Gilfillean, Inc.
ITT subs. in Fr. & Ger."—TACAN.
ITT Electron Tabe Dn.
ITT Avionics ECM.
ITT Defense Communications Division.
ITT Space Communications—satellite comm. (stations in Greece, Colombia, Spain, Guam) "our principal Germany company.

(Taken from Annual Report 1970 (before some divesting and other changes occurred.)

APPENDIX H—EXPORT OF JOBS BY MULTINATIONALS—SOME EXAMPLES

More than 1,000 steelworkers' jobs were exported from Meriden-Wallingford, Connecticut, area to Taiwan by Insilco (International Silver) by 1971. The stainless steel flatware formerly made in Connecticut now is imported by Insilco. This is just one example of the export of jobs of steelworkers by multinational firms which have sent thousands of jobs in ball bearings, roller chain and other steel products out of the U.S.

600 machinists' jobs in Elmira, New York, were exported from the United States when the Remington Rand typewriter plant, which once employed over 6,000, closed in 1972. High costs and imports were some of the many factors blamed by local managers for the shutdown. Some production was moved to Canada. But this year the local union reported that some of the machinery was sent to Brazil, where Sperry Rand, the multinational owner of Remington Rand, also has an interest. Typewriters made under license to Remington Rand specifications in Japan have been imported. The Elmira machinists joined an estimated 30,000 other typewriter employees in Missouri, Connecticut and other states whose jobs were exported in the five years before 1972.

180 ladies garment workers' jobs in San Francisco were exported by American Home Products, a giant conglomerate, to Juarez, Mexico, in 1972 where the paper garments they made could be shipped to the U.S. market from an area just south of the U.S. border. Along that strip another 50,000 jobs in toys, electronics, apparel, replace the jobs of American workers from Indiana to Los Angeles, from Pennsylvania to Wisconsin, as the giants of American industry joined small employers to export assembly jobs from the nation's cities and towns to Mexico, where goods for the U.S. markets are produced.

2,000 machinists in the GE plant of Utica, New York, had their jobs exported to Singapore between 1966 and 1972, when GE made its last radio in the U.S.

2,000 auto workers' jobs were lost in Los Angeles when Chrysler shut down. From Japan Chrysler Mitsubishi began to send the compact Colt to the West Coast of the United States in 1971.

1,600 workers' jobs in Philadelphia Ford-Philco were affected in 1972 by the latest of a long history of jobs exports and relocations that has persisted in that city since 1963, when Ford-Philco began to make its worldwide shifts in electronics. Ford-Philco is one of the major exporters from Taiwan to the United States, now that Taiwan has become the largest supplier of black and white TV sets to this country. "The jump in imports from Taiwan is attributable partly to the Japanese, but the bulk comes from a continued transfer of output from U.S. to Taiwan by Admiral, Motorola, Philco Ford, RCA and Zenith." (Consumer Electronics, Television Digest, February 5, 1973.) Henry Ford reportedly told the Mayor of Philadelphia that he did not expect to build any U.S. plants in the foreseeable future. 700 glass workers lost their jobs in a Libby-Owens Ford sheet glass plant in Shreveport, Louisiana. Pittsburgh Plate imports sheet glass from abroad.

The service jobs of America's ships have been exported until the U.S. home fleet carries only about five percent of the foreign trade volume, and U.S. employment in shipping and shipyard work is low.

19,000 shoe workers in Massachusetts alone lost their jobs in the 1960s as American shoe manufacturers faced foreign competition and followed the policy of "If you can't lick them, join them." Large conglomerate multinationals like Interco and Genesco produce shoes in France, Canada, Belgium, England, Italy and South America. A Milwaukee shoe firm announced five years ago that it would

make shoes in Ireland, exclusively for the U.S. market.

No action has been taken to protect these workers. The U.S. government has studied and restudied the problem for years on end, while each day, each week, each month tens of thousands more jobs are exported—despite the denials of the corporations involved.

To these men and women, there is no question about whether U.S. jobs have been exported. They know they have. They have lost their jobs.

And for the schoolteachers whose jobs are affected by lost bond issues, for taxpayers who have lost the tax base of their community, for firemen and policemen and other local and state government employees, the problem is growing. This is not a problem of a few Americans. This is a problem for America itself.

APPENDIX I—SOME EXAMPLES OF REGULATIONS ON FOREIGN INVESTMENT ABROAD

A Summary of Recent Regulations of the Government of Brazil Concerning Incentives to Attract Export Oriented Industries Decree Laws of October 31, 1972.

I. DEGREE LAW 1,244 AND DECREE LAW 71,277—IMPORTS OF EXPORT ORIENTED FACTORIES

1. All of the production of the import factory must be exported, except in the following cases:

a. when an annual quota of domestic sales is established at the time the application for importing the factory is approved;

b. when an Act of the President of the Republic authorizes domestic sales because of local or foreign market special conditions.

2. The factory to be imported must be in operation in the country of origin and its production in Brazil must provide an effective increase in Brazil's exports.

3. The goods produced by the imported factories and sold in the domestic market are considered imports and are therefore subject to import duties and all other local taxes. The Customs Policy Council will establish the basis for the calculation of these duties and taxes.

4. Export oriented factories imported under Decree-Law 1,236 are exempt from import duties and Industrial Products taxes.

5. The Foreign Trade Department of Banco do Brasil (CACEX) will appraise the value of the imported factory, taking into consideration the book value in the country of origin. The equipment of the imported factory must be in condition to operate at least for five years.

6. The imported factory will benefit from all Government of Brazil incentives for exports of manufactured products, except those granted by Decree-Law 1,189 of September 24, 1971.

II. DECREE 71,278—SPECIAL EXPORT PROGRAMS

1. To reecive the benefits specified in Decree-Law 1,219, the Special Export Program must result in higher export earnings to Brazil, increase industrial productivity, assure economies of scale which may lower prices in the domestic market and fit in with the export priority areas established by Brazilian economic policy.

2. The applicant must submit a list of imports which will benefit from the incentives granted by Decree-Law 1,219.

3. If the applicant wishes to obtain the import incentives prior to exports, under the Special Export Program, he will have to request advance incentives at the time the program is submitted for approval.

4. Initial investments in machinery and equipment under the Special Export Program may be imported duty free and are not included in the value limitation set forth in Article 3 of Decree Law 1.219.

[From the New York Times, Jan. 2, 1973]

SPAIN HAILS A DECISION BY FORD TO CONSTRUCT $290 MILLION PLANT

MADRID, Jan. 1.—A firm offer by the Ford Motor Company to build a $290-million plant in Spain brightened Spain's new year weekend.

The Ministry of Industry confirmed here late Friday that Ford of Europe, Inc., formally presented a petition on Dec. 23 to manufacture automobiles in this country.

According to the Spanish Government, the Ford factory will be designed to produce 240,000 cars a year. Based on the total production figure for the entire Spanish automobile industry for the current year of 630,000 units this would mean that Ford would have more than one-third of the total output of new cars, and would be a close runner-up to the Spanish giant, Sociedad Española de Automoviles de Turismo, S.A., which built 340,000 automobiles in 1972.

RULING REQUIRES EXPERTS

The decree of last Dec. 7, under the terms of which Ford submitted its petition, requires that foreign car manufacturers setting up operations in Spain must export at least two-thirds of their production. This ruling would oblige Ford to sell at least 180,000 of its Spanish-built cars outside Spain every year—80,000 more than the total number of all brands that were exported in 1972.

There was no official indication, either from Ford or from the Spanish Government, of the possible effects of such a massive export program on Ford's production elsewhere in Europe, notably Britain and Germany.

But apart from any effects abroad, the requirement is bound to make life tough for the smaller automobile manufacturing companies in Spain, such as British Leyland's subsidiary, Authi, which has been continually operating at a loss in the highly competitive domestic motor car market.

The statement released by the Ministry of Industry said that 7,640 persons would be directly employed by the plant once it reaches full production, and that during its first year it would provide jobs for 6,400 Spaniards. The factory will take five years to reach its full production capacity.

The ministry's statement confirmed earlier unofficial reports that the Ford factory would be built on Spain's eastern coast. According to the Spanish news agency, Europa Press, which is closely linked to several cabinet ministers, the site chosen by Ford is near Valencia.

The official confirmation of the Ford bid came after more than a month of speculation that began with the visit of Henry Ford 2d to Madrid in November, when he called on the Minister of Industry, Jose Maria Lopez de Letona.

The statement said Ford's annual exports from Spain would total about $216-million. That is more than one-fifth of the total of all Spanish industrial exports combined in 1971, the last year for which such a figure is available.

AUXILIARY BUSINESS SEEN

The statement also said that the Ford factory would bring about $117-million worth of business to auxiliary Spanish industries.

The news that the Ford factory would be located on the East Coast was a disappointment to the people of hundreds of towns and villages in other parts of the country—including the elegant old sherry-producing town of Sanlucar de Barrameda—which had bombarded the Government, Ford offices and the United States Embassy with letters and telegrams offering such advantages as free land for Ford to build the factory in their respective towns.

The December decree that opened the doors to Ford is expected to entice other big automobile manufacturers into Spain, where wages are low and most strikes are illegal. Last Dec. 20, the Minister of Industry said on his return from a trip to Paris that Peugeot had expressed interest in such a possibility.

[From the New York Times, Nov. 24, 1972]

U.S. INVESTORS ACCEPT MEXICO'S POLICY

(By Richard Severo)

MEXICO CITY, Nov. 23.—The Mexican Government is making it clear that it will want greater Government participation with foreigners who want to invest here. But after a month of major policy statements to that effect, key American business spokesmen say they still believe Mexico remains an attractive investment possibility.

Indeed, a review of the situation strongly suggests that Mexican businessmen are more concerned about new government policies than are foreigners. As for the Americans, some have questions about technical details, but they tend to be unsurprised—almost relieved—at recent government statements clarifying Mexican policy.

As one of them put it: "If you look at a lot of countries only a few of them can cut the mustard and Mexico's one of them. Mexico is still one of the few ball games around."

DEVELOPMENT CITED

Within the last month the Mexican economy has seen the following developments:

President Luis Echeverria Alvarez signed a decree on Oct. 23 that requires 60 per cent Mexican ownership of auto part manufacturers, sets limits on component production and sets restrictions on the number of Models that can be produced for each line.

On Nov. 3, President Echeverria sent a bill to Congress that would essentially limit the amount of foreign technology that can be purchased by companies in Mexico. Mr. Echeverria said that although foreign technology has been useful to Mexico, he felt the country had to develop as much of its own as possible "for economic independence."

The bill is certain to pass before the end of the year, and thereafter all contracts for foreign technology will have to be registered with the Government.

PHONE COMPANY INVOLVED

On Nov. 4, the Government announced it was ending foreign dominance of the tobacco industry with the creation of Tabamex, a company 52 percent owned by the Government. The Government is permitting the remaining 48 per cent to be held equally by tobacco companies and farmers.

The Mexicans call this the "Mexicanization" of the tobacco industry and predict it will provide about $24-million more in yearly earnings for 30,000 tobacco farmers and their families. Payment for the takeover will largely be to American and British interest, and negotiations are under way now.

Earlier this year, the Government acquired a majority control of the telephone company and took over Azufrera Pan-americana, a subsidiary of the Pan American Sulphur Company, a United States concern. Government control of the telephone company was achieved by increasing the Government's already substantial holdings, and Pan American Sulphur was not unhappy with the deal it made to divest itself of its Mexican holding.

However, with the three latest developments, a drift toward greater Government control was underscored. There was speculation in the press both here and abroad that it would weaken investor confidence in Mexico. As of yet, this has not happened.

In recent interviews on these developments, American businessmen were at the very least cautiously optimistic while their Mexican counterparts tended to have forebodings about what the future held for them.

"You know we are not little boys," said one Mexican. "We know what we are doing, we know how to handle foreign investors. We don't need the government to tell us what to do."

Said another, "Whenever the Government takes over something, you can be sure that, sooner or later, it will lose money."

None of the Mexicans or Americans were willing to be quoted by name.

The Americans were surprisingly sanguine about what was happening, perhaps because they have been in Mexico for such a long time and feel they understand the country's development.

"I think the Mexicans are saying they've made mistakes in the past," said one American. "They haven't really had civic responsibility. Too many of them have been saying, 'I'm out for me and you go to hell.' That's what Echeverria is out to change, and I don't blame him at all."

Another American said:

"The private sector is going into an obvious decline. But I think the Mexicans honor their commitments and welcome foreign investments, provided you first reach an agreement with the Government and know clearly where you stand.

AUTO INDUSTRY HAPPY

"Comparatively speaking, I still consider Mexico a place where you can get a reasonable return with low risk. You can make more money in Brazil, but that's a military dictatorship and surely it is a higher risk situation."

The developments in the automobile industry captured headlines in the Mexican press but they came as no surprise to Americans. In fact, in some ways, the developments were welcomed.

A large number of the more than 200 auto-component companies here are already owned by Mexican interests and the new requirements of 60 percent "Mexicanization" were reportedly not of concern to the American companies since they had already met or come close to that requirement. Auto manufacturers had received a draft of the presidential decree last spring. United States producers reportedly had no objection to restrictions on number of models, since this would tend to reduce their production costs.

Moreover, limitations on component production would not appear to be a threat to the Americans or, for that matter, the Germans. Ford, for example, produces tooling here that is exported to the United States. Volkswagen makes parts here that it exports to various places. Chrysler's new $5-million plant near Mexico City would also be unaffected, since the air-conditioning components it produces are totally for export and therefore in compliance with the new rules.

"Frankly, some of us want government participation," said one American. "We know that once we have a deal, it is easier to get money, easier to get import permits for capital goods, easier to get appointments, easier to get roads, electricity, sites in industrial parks—easier to do almost anything."

Fausto Zapata, Under Secretary of the Presidency and a close adviser to President Echeverria, discussing the situation in an interview, said:

"It is unfortunate that Mexican businessmen are accustomed to excessive profits and tax loopholes. We want to change that."

Mr. Zapata dismissed assertions by some Americans and many Mexicans that President Echeverria was leading the nation toward socialism.

"This is not the case," he said. "We are going to an economic structure characterized by our desire to be the owners of our destiny. We want Mexican entrepreneurs to do it. We don't want to be a nation of waiters."

Mr. Zapata said the Mexican economy retains "intolerable characteristics" of inequity. He said that 70 per cent of Mexico's gross national product is in the hands of 30 per cent of the population.

Mr. Zapata dismissed assertions frequently made by Mexican leftists that Americans have meddled in the affairs of Mexico.

"Nothing like Chile has happened here," he said. "Foreign investment has not hurt us but we realize now we could have a problem in the future. We want to control the pattern of investment. Americans are no different than any other investors. They want to make profits. No investor in this country is a boy scout helping us without wanting anything in return."

In any event, the furor caused by the new economic policies seems to have boiled down to a single word. Last April, the United States Department of Commerce's Economic Trends report said that "Mexico welcomes selected foreign investment." In the latest report the headline was changed to "Mexico accepts foreign investment selectively."

[From the Journal of Commerce, Feb. 6, 1973]

MEXICO TO REGULATE FOREIGN INVESTMENT

(By Bruce Cross)

MEXICO CITY.—Mexico's new foreign investment laws contain several important changes. Businessmen who expand into Mexico—including those who already have done so—now must work through two new entities created by these laws: the National Foreign Investment Commission and the National Foreign Investment Registry.

The laws themselves are relatively brief, but, regulations surely will be added to them as time goes by.

These changes are familiar and expected because they reflect Mexican thinking which has been prevalent for many years.

Ideas contained in these laws aren't really novel, but are written into the federal law books for the first time. They have grown out of Mexico's Constitution bit by bit, first from popular opinion to court decisions, then from interpretations to regulation, finally to written law.

These new laws, then, surprise no one who has taken time to think about what is happening in Mexico.

FOUR CHANGES

Four changes from Mexico's previous regulatory practice in the foreign investment field are outstanding:

1. The new laws state specifically that, with one exception, foreign investment may not represent more than 49 per cent of the capital stock in any Mexican enterprise. The one exception: if it is in the best interests of Mexico, a higher percentage of foreign ownership may be permitted.

2. Government authorization must be obtained to permit foreigners (or Mexican companies which are controlled by foreigners) to acquire more than 25 per cent of the capital stock, or more than 49 per cent of the fixed assets, of any Mexican business enterprise.

3. All shares of Mexican companies which are held by non-Mexicans (or by other Mexican companies which are controlled by foreigners) must be nominative shares, or converted to that form.

4. Control of all foreign investment in Mexico now is centralized in the National Foreign Investment Commission (Commission Nacional para la Inversion Extranjera), and that foreign investment must be registered in the National Foreign Investment Registry (Registra Nacional para la Inversion Extranjera).

Businessmen may well ask what foreign investment is in the eyes of Mexican law. The government considers investment to be foreign if it is made by foreign individuals, foreign legal "persons," and by foreign legal enterprises which do not have legal "person."

Investment also is considered foreign if it is made by Mexican companies whose capital is majority owned by foreigners, or by Mexican businesses in which foreigners have the right to control their management.

This covers a lot of ground, certainly all investment methods which non-Mexicans have used in the past.

An important point to note is the great emphasis placed on power to manage a Mexican business enterprise. If foreign investors take part in management of a Mexican company, or have the power to do so, regulation then applies also to cases involving indirect investment and use or transfer of foreign technology.

Regulation is spelled out in the three major areas of foreign investment: in the assets or capital of Mexican businesses, in real estate trusts operating along Mexico's borders or coasts, and "in other areas referred to in the law."

THREE OTHER RESTRICTIONS

Foreign investment in Mexico sometimes is planned around non-Mexicans who have obtained permanent immigration status (inmigradas).

In the eyes of these new laws, "inmigrados" may invest with the rights of Mexican nationals except when the immigrant is related to a "foreign economic decision-making entity."

Three other restrictions also apply to "inmigrados": they may not invest in activities which are reserved for Mexican nationals, they may not invest in companies which prohibit ownership of their shares by non-Mexicans, and they may not own land along Mexican borders or coasts.

RESERVED FOR MEXICANS

Seven industrial activities remain specifically reserved for Mexico's federal government: petroleum and hydrocarbons, basic petrochemicals, specified mining activities, railroads, communication by radio and telegraph, electricity, and anything involving radioactive minerals including generation of atomic energy.

Six other specific business areas are reserved for Mexican nationals and companies whose shares are reserved for Mexicans: transportation by air or sea, any kind of automotive transportation, forestry, radio and television, gas distribution, holding title to land within 62 miles of the borders or 31 miles of the coasts, plus business activities specified by the government's executive branch (including financing, banking, investment companies, insurance and bonding).

Interesting to note, the law does not prohibit minority ownership by foreigners of activities specified by the Executive Department provided those foreigners are not acting as a group.

PERCENTAGE LIMITS

Aside from those "no-no's," Mexico permits foreign investment in many other business activities—although it continues to place percentage limits on the maximum ownership which foreigners may hold in them.

These include (1) mining operations (49 per cent maximum in most areas, 34 per cent in "national reserve" areas); (2) automobile parts manufacturing (40 per cent maximum); (3) secondary petrochemical operations (40 per cent maximum); and (4) a maximum of 49 per cent in a long list of areas specified either by laws or by Executive Department regulations: advertising, agriculture, aluminum, bottled water, cellulose, cement, cosmetics, essences for flavors and perfumes, fertilizers, fishing and fish canning, glass, motion picture production, distribution and exhibition, perfume manufacturing, publishing, rubber (heavy manufacturing), soap, soft drinks, and steel.

Foreign investment to a maximum 49 per cent is permitted in all other cases for which laws or regulations do not set particular lim-

its, provided foreign investors do not take part in company administration or help determine company management policy.

Foreign ownership may be permitted at higher rates in these other cases if the National Foreign Investment Commission decides that doing so would benefit Mexico's economy.

Even in those exceptions, however, foreign investors may not take part in company management in a proportion greater than their share of its capital.

SEVENTEEN POINTS

How will Mexico's government decide what foreign investment to admit? What are its criteria for setting the maximum percentage ownership which foreigners may hold? Mexico's powers-that-be use a checklist containing 17 points, plus its own "discretionary power."

1. Foreign investment must supplement, not displace, Mexican investment.
2. Foreign investment must not displace healthy Mexican enterprises.
3. Will the foreign investment help Mexico's balance of payments? Will it increase Mexico's exports?
4. Will it raise the level of employment? How will it affect wage and salary levels?
5. Will it train and use Mexicans in its administrative and technical groups?
6. What will be its use of nationally-produced raw materials and component parts?
7. Will the new foreign investment help bring under-developed areas of Mexico into the national economic life?
8. Will it have a monopoly position?
9. To what extent will the investment be financed by foreign capital? How diversified will be its sources of capital?
10. How will the new investment help regional and subregional integration in Latin America?
11. What is the structure of capital in the branch of this business which already exists in Mexico?
12. How will this investment affect the prices and quality of products in the market?
13. What importance will this new investment have in Mexico's national economy?
14. Will it help preserve Mexico's social and cultural values?
15. What new technology will this new investment contribute to Mexico? What research and development will it do?
16. How will the foreign investor identify with Mexico's interests? What is his relationship to foreign groups which make economic decisions?
17. To what extent will the foreign investment help Mexico reach its national objectives? How does it comply with Mexico's national development policies?

REGULATE OWNERSHIP

Mexico's new foreign investment laws also regulate the ownership of capital stock in Mexican companies. In three cases, shares of capital stock in Mexican companies must be nominative: companies controlled by foreign persons, Mexican companies which in turn are controlled by foreigners, and Mexican companies controlled by foreign economic groups which have no legal standing.

In adidtion, nominative shares must be issued in the proportion and way established by the National Foreign Investment Commission or by other laws and regulations.

Bearer shares of Mexican companies no longer can be purchased freely by non-Mexicans. In order to buy bearer shares, foreign purchasers first must obtain authorization from the National Foreign Investment Commission. Then, bearer shares must be converted into nominative shares.

Furthermore, bearer shares of Mexican companies which are held by foreign or by Mexican companies controlled by foreigners must be converted to nominative shares and registered with the National Foreign Investment Registry within six months (by July, 1972). Conversion is simple, and may be done by noting pertinent nominative information on the shares themselves or on attachments to them.

These new foreign investment laws have several big teeth to insure compliance.

Companies in Mexico with foreign ownership will lose all their legal rights if they are not registered; their acts will have no legal effect whatsoever.

APPENDIX J

TO DISC OR NOT TO DISC

(By Michael G. Duerr)

Although many U.S. corporations have decided to form domestic international sales corporations, not many now expect that the DISC will revolutionize their strategies for conducting international business, according to a recent poll of international executives.

As part of a recent survey, The Conference Board asked its Senior International Executives' Panel: "Do you anticipate any change in your company's long-range strategy for competing in world markets as a result of devaluation . . . [or] other government actions (e.g., trade and investment restrictions, the DISC)?"

Only 31 of the 105 responding executives say that they anticipate any significant change for any reason, and only six attribute this change to the use of a DISC

Just over one-third of the panel (37) report that their companies have formed a DISC or else are definitely planning to form one. Seven say that they have not decided, and nine say that they have decided not to form a DISC. Almost half the panel had nothing to say about the DISC at all.

Among the most enthusiastic proponents of the DISC is the president of a chemicals company. He writes: "We formed a DISC effective January 1 and have been using it either as a direct seller or as commission agent on that portion of our export sales that qualify. In the case of certain products in ample supply, we have calculated in the DISC benefits in setting our pricing so as to help achieve greater volume. We have achieved in the first three months of 1972, and expect to achieve for the year as a whole, a significant increase in our export sales vs. 1971. In part, this increase is a result of the DISC legislation. . . ."

The president of an industrial equipment firm notes that the use of a DISC has encouraged his company to speed up shipping time from U.S. plants to Europe, while cutting back on European inventory. And several other executives say that they expect to place more emphasis on exports in order to gain full advantage from a DISC.

Executives who have decided against using a DISC typically explain that their companies are already committed to overseas manufacturing. "We took a hard look at DISC and decided it would not be to our advantage because our international investments are more significant than our exports," writes one. A pharmaceuticals company executive reports that a study convinced him that DISC's effect would be "quite negligible." And a foods company president writes: "We were pleased to see the adoption of DISC, although we have not presently planned to form one."

The majority of companies which have decided to form DISC's indicate that they expect to derive some benefits, but that they do not expect to change their strategies for serving foreign markets as a result of their new export vehicle. The following comments are typical of the range of opinion among this group:

"Like most companies, we are taking advantage of the benefits of the DISC. However, we do not feel that they are of sufficient magnitude to have any real impact on the competitiveness of U.S. exports."—Assistant controller, machine tools.

"The Government's DISC proopsal has been under active consideration, and it is very possible that our company will establish a DISC in the near future. Our investigations, however, have indicated that the potential benefits from the DISC are not likely to have much of an impact on our operation."—Vice president & general manager, metal products.

"We are in the process of forming a DISC corporation, but do not presently feel that it will have a major impact on the growth rate of our U.S. exports."—President, household products.

A few companies express doubt that the DISC will endure as an export promotion measure. The vice president, international, of one of them feels that their DISC "will definitely have a favorable effect on U.S. export sales volume, with favorable effects on plant capacity utilization and profits." But he adds: "Our policy will be to try to take advantage of this on a short-term basis, as we do not expect that DISC opportunities will continue unhampered by Congressional restrictive amendment or foreign government action."

Several other panelists suggest that present legislation does not go far enough in the direction of offering export incentives. Two suggest additional steps:

"We expect to take full advantage of the DISC-type operation, but this advantage is obscured by the problem of arriving at a practical tax reserve policy. An export incentive in the form of a concrete reduction in the tax rate, similar to a Western Hemisphere Trade Corporation, would be preferable."—President, machinery and equipment.

"Although we view the DISC legislation as a step in the right direction, further tax concessions and assistance by the government—rather than hindrance—will be required for this country to balance its external accounts and maintain an internationally competitive position.—Treasurer, pharmaceuticals.

And another panelist expresses a viewpoint implicit in the comments of many:

"We probably will utilize DISC only for a small portion of our business inasmuch as we are so thoroughly established over the years in our distribution methods, our financing methods, and our tax situation all over the world. DISC does not offer us what it would to the company just contemplating entry into the foreign field."—Vice president, international, instruments.

The Conference Board's panel is composed of executives whose companies have been active in international business for some years. It is possible, therefore, as the final quotation suggests, that a survey of companies with less international experience would have drawn a more enthusiastic response.

[From the Wall Street Journal, March 7, 1972]

NOW AMERICAN EXPORTERS CAN HELP THE GOVERNMENT BY NOT PAYING ALL THEIR INCOME TAXES

By setting up a DISC. A DISC or Domestic International Sales Corporation is a new type of U.S. company created by Congress that will make doing business overseas more profitable to American businessmen.

WHAT DISC DOES

A DISC serves as the export sales arm of a United States company and operates under greatly simplified intercompany pricing procedures. By offering significant tax benefits to U.S. companies who operate through a DISC, the Administration has put American goods and services in a more competitive posture in foreign markets.

WHAT DISC CAN DO FOR YOU

The new law provides an indefinite deferral on 50% of export earnings. In order to take advantage of the benefit, a company

must file a DISC election with the IRS . . . in some cases before March 31, 1972. Your attorneys can give you the necessary legal guidance to comply with Internal Revenue Service directives in this area.

WHAT WE CAN DO FOR YOU

Chemical Bank can help by giving you the financial advice needed in setting up and operating a DISC. Our international officers have followed the development of DISC legislation for some time and are experts on the financial implications of this new law.

WHAT WE'VE ALREADY DONE FOR YOU

As a matter of fact they've even written a book on it: *DISC—A Summary of Pertinent Facts for the Financial Officer* which explains many of the details in setting up a Domestic International Sales Corporation. Chemical Bank also has in operation a computer model that can assist you in forecasting various tax impact alternatives between a DISC and the parent corporation. The computer service is available at a nominal cost. The booklet is free. Both are extremely valuable in evaluating DISC.

In addition, Chemical Bank has a wide range of international banking experience that our officers can use to help you properly invest the increased cash flow that a DISC will produce.

If you would like more information on DISC or on Chemical Bank or would like a copy of our DISC brochure contact your Chemical Bank representative or write to: DISC, Box 5161, Chemical Bank, 20 Pine Street, New York, N.Y. 10015. But do it today. March 31 is only 28 days and 16 hours away from this morning's coffee.

Chemical Bank. We do more for your money.

APPENDIX K

[From the Economic Outlook, December, 1972]

CONTROLS ON CAPITAL FLOWS—THE RECENT ESCALATION

(NOTE.—Tables referred to not printed in the RECORD.)

THE GENERAL CONTEXT

The recent escalation of measures to restrain capital flows has been superimposed on a structure of controls which, in the case of a number of countries, was already fairly extensive. In general, the already-existing controls had been introduced and maintained for motives other than that of warding off surges of mobile funds, and it is necessary to distinguish clearly the different types of motivation.

Broadly speaking, controls and other measures affecting capital flows may be imposed for two main types of reason.

(*i*) First (as recently), resort may be had to controls or other measures to protect the domestic economy and/or the external balance against sudden *abnormal surges* of funds, consisting largely, but far from exclusively, of flows of banking funds or transactions in short-dated assets. Recently it has been, predominantly, the countries at the "receiving end" that have extended such controls, i.e. against inflows from other countries and primarily from the United States. But previously-existing controls included measures to restrain outflows.

(*ii*) Second, resort may be had, on what is intended to be an *enduring basis*, to measures designed to restrain international flows of capital into or out of a country, whether for direct balance of payments or other reasons. The most usual case would appear to be restrictions on outflows, but some countries have sought to stimulate inflows, particularly on direct investment, for example by tax privileges.

The object of this note is to consider only control measures falling under the first category, i.e. those imposed to ward off sudden large flows of funds. But the same measure may be imposed for a variety of motives, and the effects will be the same whatever the type of motivation. Hence the recent escalation of controls, imposed as a result of monetary instability, has to be considered against the background of the apparatus of controls which already existed and which had been imposed primarily for other reasons.

SUMMARY OF RECENT MEASURES AGAINST MOBILE FLOWS

During the last eighteen months there have been three major waves of defensive action by OECD countries against surges of mobile capital and their undesired domestic liquidity effects:

The first started after the temporary closing of some major European exchange markets on 5th May, 1971, and was marked by the floating of the Deutsche Mark and the Dutch Guilder, and the revaluation of the Swiss Franc and the Austrian Schilling;

The second was sparked off by the U.S. measures of 15th August, 1971; and

The third followed the Sterling crisis of end-June, 1972.

Before the third wave started, there had already been some gradual rebuilding of the barriers that had been dismantled immediately after, or in some cases even before, the Washington Agreement of 18th December, 1971.

In the May to mid-August 1971 *period,* action other than through exchange rates was largely concentrated on measures to influence the *banks' external position:* restriction of interest payment on foreign deposits (Germany), tightening, or the introduction, of reserve requirements on the banks' net or gross foreign liabilities (Belgium, France, Germany), and direct regulation of the banks' net external position (France). In the Netherlands and Italy, restrictions against inflows via the banks' external accounts were already in force at that time.

Two countries took measures to affect other—including long-term—forms of capital movements:

Belgium-Luxemburg adapted the two-tier exchange system of 1955 to work as a brake on inflows rather than outflows only;

Japan stopped a major loophole in its otherwise rather tight system by prohibiting the sale to non-residents of unlisted domestic bonds (the bulk of the Japanese bond market). In addition, it took important measures to liberalise long-term capital exports.

In the mid-August to December 1971 *period,* most countries had—as an immediate reaction to the U.S. August programme—recourse to defensive measures through their exchange rates, suspending the upper intervention limit or both limits. Some countries supported this through action on the banks' external position of the kind described above (France, Italy, Spain, Switzerland, the United Kingdom, Japan). France, Italy and Japan found it necessary, in addition, to impose closer control on transfers into non-resident checking accounts denominated in their respective domestic currencies.

Capital movements were also affected by the following measures.[1]

France introduced a two-tier exchange system, with only commercial transactions being allowed access to the officially supported exchange market; this was supplemented by action to mitigate shifts in "leads and lags";

The *United Kingdom,* with its sophisticated money markets, found it necessary to supplement its action on the banks' external position through introducing barriers against inflows into other sectors of the money market (deposits with local authorities, and building societies, Treasury bills and notes of the short- and medium-term range) and later also against inflows into long-term markets;

Japan tried to limit inflows under "leads and lags" through restrictions on advance settlements for exports;

The *Netherlands,* to put a brake on inflows into its bond market, introduced a closed-circuit system for non-resident transactions in domestic guilder bonds ("0"-guilder market);

Switzerland reinforced its traditional mechanisms for re-exporting inflowing funds by obliging foreign borrowers to convert into foreign currency the proceeds of issues of SF bonds or notes and of medium and long-term bank loans; and raised the maximum amount for individual SF issues by foreigners.

During the January to mid-June 1972 *period,* four countries again acted restrictively on inflows via their banks' accounts, partly re-introducing measures they had abolished shortly before or after the Washington Agreement (Belgium-Luxembourg, the Netherlands, Germany, Japan); and Japan re-introduced its control over advance export settlements, abolished in December, 1971. The most important, and rather new measure affecting *non-monetary capital operations* other than trade credits was the introduction by Germany of cash deposit requirements on companies' foreign liabilities (including intra-concern liabilities). The initial reserve ratio was fixed at 40 per cent which, *inter alia,* meant a considerable increase in the cost of borrowing abroad. Five countries took measures to encourage *exports* of non-monetary capital (France, the Netherlands, Switzerland and Japan). The United Kingdom liberalised inward and outward direct investment vis-a-vis EEC countries in anticipation of EEC entry.

Since the floating of Sterling on 23rd June, 1972, two countries have taken fairly drastic and far-reaching measures against inflows:

Switzerland introduced a full-scale ban on foreign acquisition of practicaly all kinds of capital assets (including real estate) and imposed a penalty rate of 8 per cent per annum on any increase in foreign-owned bank deposits. It also put restrictions on borrowing abroad by non-bank enterprises. The banks were asked to balance their foreign currency position on a daily basis (a measure withdrawn recently); and reserve requirements on banks' foreign liabilities were put on a mandatory basis.

Germany tightened both the cash deposit requirements on non-bank liabilities (raising the ratio from 40 to 50 per cent, the legal maximum, and extending the coverage) and reserve requirements on banks' foreign liabilities. More important, a ban was imposed on foreign purchases of domestic DM bonds as the coupon tax barrier (introduced in 1965) proved no longer effective; this was supplemented subsequently by an agreement that the banks would not reduce their holdings of foreign DM bonds below the end-June 1972 level.

Other recent actions include the following:

The *Austrian* authorities have reached an agreement with the banks to limit the net inflow into the Austrian bond market.

The *Netherlands* has extended existing controls to trade credit transactions, and to intra-concern capital operations (which are frequently counted as direct investment transactions). Thus, participations in Dutch enterprises and the acquisition of Dutch shares are practically the only remaining outlets for foreign investment in the Netherlands, though not in guilder-denominated assets: for some time the authorities have satisfied substantial demands for guilder assets by allowing non-resident firms to use the Euro-guilder issue market (on the understanding that the paper would not be

---

Footnotes at end of article.

offered to Dutch residents). To a lesser extent, the same technique has been used by *France* and more recently by *Belgium-Luxembourg*.

Japan has continued its policy of tight controls over advance export settlements and over the banks' external position, including transfers to non-resident yen accounts, and has pursued an expansionary capital export policy. More recently, the authorities have prohibited the net acquisition of all types of domestic bonds and shares by non-residents.

Table 14 attempts to categorize the different measures adopted under the following heads:

(a) Floating rate for capital transactions;[2]

(b) Measures affecting banking flows;

(c) Measures affecting short-term borrowing abroad by non-banks, including action to restrain movements of leads and lags;

(d) Measures applying to transactions in long-term assets.[3]

Although it would be premature to draw any firm conclusions from recent experience, some tentative comments can be made regarding each of these types of measures.

A floating rate for capital transactions probably leads to widespread evasion only when the spread between the "commercial" rate and the "financial" rate is excessive (for instance, 5 per cent for more than a brief period). In practice the spread on the French and Belgian markets has remained fairly narrow—and evasion therefore has presumably been on a small scale only.

Banking flows are perhaps relatively easy to regulate. But imposition of controls on such inflows has frequently led to other routes for short-term borrowing being developed; hence the imposition of controls on borrowing abroad by non-banks, and in some cases, on transactions in long-term assets. One might judge that the apparatus of controls, even when most complete and stringent, has been fairly imperfect as a barrier, but that it has, nevertheless, acted as a barrier to some considerable extent. One question for consideration is whether countries have found that the effectiveness of such controls has weakened after the initial shock of their introduction.

The worst gap may lie in the difficulty of controlling the timing of payments for current-account transactions—a gap to which a dual-market mechanism is also subject. It may be true to say that both the dual-market mechanism and the controls are likely to become relatively ineffective when a country's currency comes under heavy speculative pressure in the markets.

Restrictions on "short-term" transactions would generally be regarded as less harmful than restrictions on portfolio investment and, still more, on direct investment. But controls over "short-term" transactions are likely, under extreme pressures, to prove inadequate, and to require to be extended, to some extent at least, to cover "long-term" transactions. And, in any case, the distinction between short-term and long-term transactions is becoming less meaningful—e.g. direct investment is often financed at short-term through the Euro-markets. A determining factor here would seem to be whether extreme pressures requiring severe controls would last long enough for the inevitable distortions on genuine long-term capital movements to matter.

More generally, it would seem that controls which involve licensing of individual cases by the authorities may tend to be more arbitrary than measures which do not necessitate this. Many of the recent measures (including of course the dual-market system) appear not to involve individual licensing by the authorities—though in some cases they may involve unofficial rationing by banks, and official vetting of direct investment projects and of foreign borrowing by domestic companies.

Though the recent growth of controls over capital movements has been motivated by a desire to head off inflows, the structure of controls already existing before the escalation was, in some cases, built up partly as a protection against speculative outflows. This was of course chiefly true of countries which had, in the past, been most exposed to these dangers; the United Kingdom being a leading example. Some elements in the French system of controls were also originally put in place to guard against speculative outflows and could be used again for that purpose. The dual exchange rate system was operated by Belgium in the summer of 1969 when it was rumoured that the Belgian franc would follow the devaluation of the French franc and when speculation on a German revaluation was strong.

Recent British experience indicates the relative ineffectiveness of such protective devices for restraining outflows. There may be two special reasons for this. First, recent speculation has, for the most part, consisted rather of speculation against the dollar than of speculation in favour of any other currency in particular, so that the pressure for inward flows has tended to be diffused rather than concentrated on one particular currency. Speculation against sterling, on the other hand, was clearly concentrated on that one currency. Second, countries are in a sense more vulnerable in face of capital outflows than of inflows, because their reserves are finite, and generally small in relation to potential outflows. The standard of effectiveness required is therefore much higher. It may be added that the United Kingdom outflow was also difficult to control insofar as some overseas Sterling countries represented loopholes in the system and insofar as there was a sizeable stock of Sterling liabilities to non-residents. Use of the dual-exchange rate by Belgium was not fully successful in restraining capital outflows, because these continued for a time in the shape of changes in the terms of payment on current transactions.

FOOTNOTES

[1] The present Note makes no attempt to summarise the whole range of short-lived measures taken for the two-week period preceding the Washington Agreement.

[2] There has, of course, been temporary recourse to floating rates for *all* transactions.

[3] Practically all such measures affect capital movements falling within the scope of the liberalisation commitment to which Member countries have subscribed under the OECD Code of Liberalisation of Capital Movements and have thus been examined by the Organisation's Invisibles Committee and approved by the OECD Council.

TABLE I.—PLANT AND EQUIPMENT OUTLAYS BY U.S. CORPORATION FOREIGN AFFILIATES 1960–73

[In billions of dollars]

Year	Total	Mining and smelting	Petroleum	Manufacturing	Other
1960	$3.8	$0.4	$1.5	$1.4	$0.5
1961	4.1	.3	1.5	1.8	.5
1962	4.6	.4	1.6	2.0	.5
1963	5.1	.4	1.9	2.3	.5
1964	6.2	.5	2.1	3.0	.6
1965	7.4	.6	2.3	3.9	.7
1966	8.6	.8	2.5	4.6	.7
1967	9.3	.9	3.0	4.5	.8
1968	9.4	1.0	3.3	4.2	.8
1969	10.8	1.1	3.6	5.0	1.0
1970	13.0	1.4	3.8	6.5	1.4
1971	14.8	1.7	4.7	6.8	1.5
1972 [1]	15.4	1.7	5.2	6.9	1.6
1973 [1]	16.3	1.7	5.9	6.9	1.8

[1] Commerce Department estimates.

Source: Survey of Current Business, September 1966, May 1967, September 1969 and September 1972, U.S. Department of Commerce and releases from Office of Business Economics.

TABLE III.—CHANGE IN EMPLOYMENT (ALL EMPLOYEES) IN MANUFACTURING INDUSTRIES WITH HIGH DIRECT INVESTMENTS [1]

	1966–72 change in number of employees	1966–72 percent change
Nonelectric machinery	−45,800	−2.4
Electrical equipment	−75,700	−4.0
Transport equipment	−170,900	−8.9
Chemical and allied products	+40,800	+4.2

[1] Commerce Department Survey of Current Business and studies emphasize direct investment between 1966 and 1970. Employment changes are for 2 digit SIC Classifications, Bureau of Labor Statistics.

TABLE II.—SELECTED LEADING NONAGRICULTURAL COMMODITIES IN U.S. FOREIGN TRADE, 1965 AND 1971, AND PERCENTAGE CHANGE

[Dollar amounts in millions]

Commodity	Imports 1965	Imports 1971	Imports Percent change	Exports 1965	Exports 1971	Exports Percent change
Ores and metal scrap	$971	$1,044	7.5	$435	$486	11.7
Coal				477	902	89.1
Petroleum and products	2,092	3,323	58.8	418	479	14.6
Chemicals	768	1,612	109.9	2,403	3,837	59.7
Nonelectrical machinery [1]	1,160	3,503	202.0	5,275	8,779	66.4
Electrical machinery and products [2]	640	2,557	299.5	1,660	3,068	84.8
Autos, trucks, buses and parts	939	8,015	753.6	1,928	4,406	128.5
Motorcycles	134	497	270.9			
Aircraft and parts	140	298	112.9	1,130	3,389	199.9
Rubber products	[3] 47	[3] 263	459.6	166	205	23.5
Paper products	870	1,157	33.0	389	686	76.3
Glass and glassware	93	197	111.8	128	185	44.5
Steel	1,140	2,615	129.4	607	760	25.2
Nonferrous base metals	$1,198	$1,432	19.5	$539	$597	10.8
Leather	66	85	28.8			
Wood manufacturers other than furniture	270	491	81.9			
Textiles	800	1,392	74.0	528	632	19.7
Clothing	541	1,521	181.1	112	178	58.9
Footwear	160	758	373.8			
Furniture	60	261	335.0	41	55	34.1
Travel goods, handbags and small leather goods	50	119	138.0			
Scientific instruments	43	78	81.4	288	469	62.8
Photographic equipment and supplies	100	245	145.0	233	508	118.0

[1] Includes engines, tractors, computers, factory, and office machinery.
[2] Includes power machinery, generators, control instruments, radios, and TV.
[3] Source: U.S. Department of Commerce, Bureau of the Census, U.S. Imports of Merchandise of Consumption, FT–125, p. 6; General Imports, FT–150–71, p. 9.

Source: U.S. Department of Commerce, Bureau of the Census, Overseas Business Report. April 1972, pp. 4–13.

TABLE IV.—EMPLOYMENT CHANGES IN SELECTED ELECTRONIC, ELECTRICAL AND OTHER "TECHNOLOGICALLY ADVANCED" INDUSTRIES, SEPTEMBER 1969 TO SEPTEMBER 1972 [1]

Industry sectors	September 1969 (number)	September 1972 (number)	Change (September 1969 to September 1972) Number	Percent
Electronic components and accessories:				
Production employees	281,900	237,200	−44,700	−15.9
Nonproduction employees	121,300	108,700	−12,600	−10.4
Communication equipment:				
Production employees	262,400	218,800	−43,600	−16.6
Nonproduction employees	269,000	214,100	−54,900	−20.4
Metalworking machinery:				
Production employees	254,100	211,900	−42,200	−16.6
Nonproduction employees	86,800	78,300	−8,500	−9.8
Aircraft engines and engine parts:				
Production employees	114,700	74,100	−40,600	−35.4
Nonproduction employees	90,200	64,600	−25,600	−28.4
Office and computing machines:				
Production employees	143,800	112,000	−31,800	−22.1
Nonproduction employees	134,000	135,100	+1,100	+.8
Special industry machinery:				
Production employees	137,200	116,700	−20,500	−14.9
Nonproduction employees	70,300	61,500	−8,800	−12.5
Miscellaneous machinery (not elsewhere specified):				
Production employees	178,300	164,300	−14,000	−7.9
Nonproduction employees	50,300	46,300	−4,000	−8.0
Radio and television receiving equipment:				
Production employees	121,000	107,200	−13,900	−11.5
Nonproduction employees	40,300	36,500	−3,800	−9.4
Electrical industrial apparatus:				
Production employees	161,900	149,300	−12,600	−7.8
Nonproduction employees	69,000	64,300	−4,700	−6.8
General industrial machinery:				
Production employees	193,300	180,800	−12,500	−6.5
Nonproduction employees	98,800	87,200	−11,600	−11.7
Electric test and distribution equipment:				
Production employees	145,000	134,600	−10,400	−7.2
Nonproduction employees	68,100	61,100	−7,000	−10.3
Mechanical measuring and control devices:				
Production employees	72,600	65,900	−6,700	−9.2
Nonproduction employees	42,500	38,600	−3,900	−9.2
Engineering and scientific instruments:				
Production employees	38,200	32,600	−5,600	−14.7
Nonproduction employees	39,500	32,500	−7,000	−17.7
Engines and turbines:				
Production employees	78,000	73,000	−5,100	−6.5
Nonproduction employees	36,900	38,500	+1,600	+4.3
Electric lighting and wiring equipment:				
Production employees	162,000	158,600	−3,400	−2.1
Nonproduction employees	47,400	46,000	−1,400	−3.0
Watches, clocks and watchcases:				
Production employees	29,100	25,800	−3,300	−11.3
Nonproduction employees	6,300	5,600	−700	−11.1
Optical and opthalmic goods:				
Production employees	38,300	40,100	+1,800	+4.7
Nonproduction employees	15,700	15,900	+200	+1.3
Miscellaneous electrical products:				
Production employees	96,100	99,300	+3,200	+3.3
Nonproduction employees	28,500	27,300	−1,200	−4.2
Household appliances:				
Production employees	154,900	162,000	−7,100	+4.6
Nonproduction employees	39,300	40,100	+800	+2.0

[1] Ranked in order of total number of production jobs lost.

Source: Employment and Earnings United States 1909–71, bull. No. 1312 and Employment and Earnings, vol. 19, No. 6, December 1972, Bureau of Labor Statistics, U.S. Department of Labor.

COMPLEX ISSUE OF MULTINATIONAL CORPORATIONS

Mr. FANNIN. Mr. President, as the Senator from Connecticut has noted, the Senate Finance Committee today and last week has heard interesting testimony on the many sides of the issue of multinational corporations.

The issues are complex. We cannot afford to jump to hasty conclusions on the basis of a few assertions unsubstantiated by fact. Some of the testimony we have received has been more emotional than factual.

To help provide more factual information on the issues, I ask unanimous consent to insert in the RECORD the text of testimony presented today by F. Perry Wilson, chairman of the board of Union Carbide Corp.

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

MULTINATIONAL CORPORATIONS AND THE U.S. ECONOMY

(Statement by Mr. F. Perry Wilson)

(Charts mentioned in text not printed in RECORD.)

Mr. Chairman and members of the Committee, my name is F. Perry Wilson. I am Chairman of the Board of Union Carbide Corporation. Union Carbide is a major manufacturer of chemicals, plastics, industrial gases, carbon products, metals, and consumer products. The Corporation is chartered in New York State and has production facilities in 44 states. It is a multinational corporation with affiliated manufacturing facilities in 30 foreign countries. Total consolidated sales exceeded $3.2 billion last year, about two-thirds in the domestic market and one-third in foreign markets. Our exports from the United States exceeded $260 million last year. I have had considerable personal exposure to our international operations, having served as the executive vice president of Union Carbide Canada, Ltd., and as president of Union Carbide International Company, a former division which for many years represented the Corporation's overseas interests. We are glad to have this opportunity to participate in the Subcommittee's hearings on the economic impact of the multinational corporation.

In view of the testimony of other witnesses, there is no need for me to again go into the detail of the problems which the United States faces in international trade. The existence of almost a $7.0 billion trade deficit is, by itself, dramatic evidence that our nation has entered a new era in international economic relations.

Recently, much of the attention given to the adverse changes in U.S. trade patterns has focused on the multinational corporation as a major factor and influence with respect to world production and trade. As you know, legislation to restrict multinational corporations' activities is presently pending before the Congress.

The impact of multinational corporations has been the subject of extensive studies by government agencies, by industry and trade associations, by industrial companies, and by economists and scholars both here and abroad. In this connection we believe it may be helpful to provide the members of the Subcommitte with a picture of how at least one multinational corporation operates, and of the benefits which its overseas activities bring to the U.S. economy, and to offer some suggestions for U.S. international trade policy in the years ahead. Our experience as a multinational corporation in the chemical industry is admittedly not characteristic of every firm in every industry, but we are sure it is shared by most of the chemical industry and by many other major American international companies.

Let me emphasize by stating at the outset that Union Carbide would prefer to confine its manufacturing efforts to the United States. We would rather build plants and manufacture our products in the United States instead of in a foreign country. We would prefer to serve foreign markets with exports from the United States whenever and wherever that is possible. There are several reasons for this. In addition to all the commercial risks involved in any major investment decision, a foreign investment in manufacturing facilities brings a broad range of new and unfamiliar problems and risks: such as, currency fluctuation and convertibility; exchange controls; government regulatory policies; the potential for expropriation or nationalization; a lack of trained personnel together with new concepts of employee and labor relations; different legal, tax, and accounting systems and practices; to say nothing of language and communication difficulties.

WHY OVERSEAS INVESTMENTS ARE MADE

Why, then, do we make investments abroad? The reasons can be outlined by briefly tracing how our business in foreign countries begins and expands. Foreign demand for most of our products normally manifests itself in the beginning by unsolicited orders for export from here. As such demand grows the first step has usually been to appoint independent sales agents in the countries involved. With further expansion of demand, we then send our own marketing representatives to better promote exports from our U.S. production facilities.

The crucial decision point comes when the market in that foreign country (or areas) becomes large enough, often through our own marketing efforts, to support local production. If local competitive facilities should be installed, it would become increasingly difficult and eventually uneconomic to continue selling abroad because of transportation costs, import duties and other costs not borne by the local competitor, and often because of restrictions or barriers imposed by many foreign governments. At this point, we, as any American exporter, would have two basic alternatives: to give up the foreign market in which we have invested a good deal of time and money to develop, or to install a manufacturing operation within the market. And one of the things that our experience makes clear: if we do not respond at this point to the local market conditions by building a plant, some other international competitor certainly will—hence, we would lose the export position whether or not we make the foreign manufacturing investment.

Because of this kind of economic competitive pressure which results from the normal industrial growth and development in

foreign countries, companies like Union Carbide have found it necessary to invest in foreign manufacturing facilities. Nothing in our experience leads us to believe that if an American-owned foreign production facility installed under these conditions were to be terminated, its local sales volume would automatically be replaced by an equivalent volume of exports from the U.S.

UNION CARBIDE'S STUDY OF FOREIGN INVESTMENT

As public interest in the multinational corporation increased, we decided to undertake a thorough and detailed study of Union Carbide's international investments with the aim of determining their impact on our domestic business, our exports, our employment, and on the U.S. balance of trade and balance of payments. The results of this study were published in October of 1972 in a 93 page report. Copies of this report have been supplied to the Committee.

The Carbide study covered the period from 1951 through 1970 and involved a detailed examination and analysis of our exports, product-by-product and country-by-country, and their relationship to our investment in manufacturing facilities in those countries.

This detailed study clearly demonstrates that:

1. Union Carbide's exports from the United States have increased, not decreased, as our investment in foreign facilities has increased. In fact there has been a direct positive correlation between the trends of affiliated overseas production and our export volume from the United States (Chart No. 1, attached, depicts this relationship).

Our exports from the United States in 1970 at $253 million were seven times greater than they were in 1951, compared to a five-fold increase in production of affiliated foreign companies. In 1951, Union Carbide exported only 5% of its domestic production. By 1970 this increased to 11%.

2. Rather than "export" jobs, we have found that our foreign investments result in the creation of domestic jobs and an increase in product exports from our U.S. plants because of what we call the "pull" effect. The establishment of a new plant within a foreign market obviously reduces U.S. exports of the products manufactured by the new plant, but in time, our study shows, this loss of exports is far more than offset by increase in export of intermediate, allied, or more technologically sophisticated products. The presence on the scene in the foreign market of an expanded local organization, required because of the local manufacturing facility, provides a broad, more effective and more aggressive overall marketing effort than can be achieved just with an export market organization, or a sales agent.

This "pull" effect is tangible and measurable. Let me offer two specific examples of what it means to Union Carbide:

(a) Our international marketing managers were asked to make a detailed analysis product-by-product, country-by-country, year-by-year, of what their probable export experience would have been if the Corporation had not made any additional foreign investment after 1951, taking into consideration all changing external factors as they took place, such as tariffs, quotas, currency effects, as well as competitive plant installations. These detailed estimates produced a total "theoretical" export figures of $163 million for 1970, assuming foreign investment level the same as 1951. This is $90 million less than the actual exports of $253 million in 1970. Over the 20-year period from 1951 through 1970, we estimate our total exports would have been $500 million less if we had not made these foreign investments.

(b) We then estimated what this additional $90 million worth of exports would have meant to our 1970 employment levels. With export volume at about 11% of domestic sales, there is no doubt that at least one out of ten, or 5,300, of our employees rely on exports for their jobs. The $90 million figure we have mentioned represented 36% of our 1970 exports. A 36% reduction of our export-related employees would have meant roughly a reduction of 1,950 employees. Therefore, we are satisfied that our foreign investments, rather than "exporting jobs" have created at least 1,950 additional jobs in the United States.

As specific examples of the presence or absence of "pull" effect, we have included two additional charts.

Chart No. 2 (attached) presents the export history of a major Union Carbide product group to Australia from 1951 through 1970. From 1951 through 1956, export sales of these products to Australia were handled by a local independent agent—and the sales remained stable, at a level of less than half a million dollars a year. In 1957, we brought on-stream an Australian manufacturing facility for these products, and the initial result was a slight drop in our exports to Australia. However, the effect of a strong local organizational presence, and the marketing "pull" of a local production facility began to show up dramatically in 1960. Our export of this product group to Australia today is five times as large as it would be if we had not invested in a plant there.

Chart No. 3 (attached) demonstrates what can happen when the decision is made not to protect an export developed market by building a local manufacturing facility. For a variety of reasons, Union Carbide decided not to build a plant for the production of this particular product group in Europe. A foreign competitor did build such a plant in 1966 and our export sales plummeted from a high of $9.5 million in 1965 to zero in 1969.

These charts do not represent unique situations or special circumstances. All over the world, exports of Union Carbide to foreign markets in which we have affiliated manufacturing facilities tend to be at a higher level and to show equivalent or greater rates of growth than exports to areas where Union Carbide has no manufacturing investment.

FOREIGN INVESTMENTS PRODUCE OTHER BENEFITS

These multinational aspects of Union Carbide's operations also produce other benefits for the U.S. economy. Our net positive contribution to the U.S. balance of payments was $236 million in 1970 and exceeded $1 billion during the period 1963–1970 (as shown on Chart No. 4 attached). The dividends and other income received from foreign affiliated corporations exceeded dollar investment sent from the U.S. by $20 million in 1970 and by $246 million over the last 20 years.

It should not be overlooked that the net inflow of income from the overseas affiliates of all U.S. corporations will again make the largest single positive contribution to the U.S. balance of payments—an estimated $5 billion in 1972.

We are firmly convinced that the record achieved by Union Carbide's foreign investments and multinational activities clearly establishes that they have benefited the United States. It demonstrates that our interests in foreign production facilities produce significant gains for our employees, our stockholders, for the United States Government, and for the national economy and well-being.

From this record it would seem evident that attempting to solve U.S. international trade problems by taking it "out of the hides" of multinational corporations would almost surely be self-defeating and counter-productive.

THE ASPECTS OF FOREIGN INVESTMENT

Among the proposals before Congress at this time are some which would either repeal the foreign tax credit or require payment of U.S. income tax on earnings retained abroad by controlled foreign corporations or both. The combined impact of these proposals would boost the overall tax burden on Union Carbide's share of the earnings of its overseas affiliates to as much as 79% of pre-tax income. Certainly this would represent a confiscatory tax rate. It would put most of our foreign manufacturing affiliates in a non-competitive position, and the effect would be the more severe because of the capital-intensive nature of most of our business. It would deny our foreign affiliates the funds they need to remain modern and competitive. It would certainly tend to force the liquidation of our foreign operations—but it would not benefit the U.S. economy, and it would not create any jobs in the United States.

The problem facing Union Carbide and our foreign affiliates in remaining competitive internationally even with no adverse change in tax treatment is reflected in the listing below of the world's ten largest chemical companies.

1971 sales

[In millions of dollars]

duPont, U.S.A.	3,848
Imperial Chemical Industry, United Kingdom	3,717
Hoechst, West Germany	3,487
Montedison, Italy	3,270
BASF, West Germany	3,210
Union Carbide, U.S.A.	3,038
Bayer, West Germany	2,649
AKZO, Netherlands	2,307
Rhone-Poulenc, France	2,181
Monsanto, U.S.A.	2,087

All of these companies are strongly competitive and have foreign operations that make them multinational. They are our competitors. They are well entrenched in the markets of their own countries, and they are becoming increasingly competitive in third country markets. Only three of the ten are U.S. companies. Some of the countries involved—France, Italy, and the Netherlands—exempt from home country taxes all foreign source income realized by their nationals. The others follow the U.S. practice of allowing a credit for foreign income taxes paid on income remitted from abroad to the extent of the home country tax on such foreign income. Today there is no country which taxes the undistributed earnings of a foreign operating subsidiary. Higher taxes on the foreign source income of the three U.S. multinational chemical companies listed above would only tend to benefit the seven foreign chemical competitors. The stockholders and employees of these foreign competitors and their national economies would be the gainers, our's the losers.

We should not leave this question of foreign tax credit without first discussing an aspect of it which seems to be widely misunderstood. As you know, the tax regulations of the United States, through a specific formula, make it completely impossible for foreign tax credits to reduce, in any way, the U.S. tax liability which exists on income generated within the United States. Stated another way, the effective tax rate U.S. corporations pay on their income earned domestically would be exactly the same if they had no foreign operations.

Our experiences with taxes abroad also clearly demonstrates that U.S. corporations do not go overseas to escape or evade taxes. During the five year period from 1966 to 1970, Union Carbide's share of tax payments made by its foreign affiliates to foreign governments averaged 52.5% of its share of total pre-tax income. Obviously, we are not investing overseas to evade tax payments.

TECHNOLOGY TRANSFER

The chemical industry is a high technology industry. At Union Carbide, our technology, patents, and know-how are among our most important assets. We are concerned, therefore, with proposals that would impose new restrictions on the international exchange of technology. In 1970, we received fees in excess of $10 million, mainly from affiliated foreign companies, as payments for the continuing use of our technology, services, and know-how. These fees are an important source of revenue for our present research and development programs and represent a significant contribution to the U.S. balance of payments. A reduction in this revenue would reduce our capability to invest in new research and development—and I should note that research is very costly today. Because of the great importance of our technology to us, we do not make it available to foreign competitors as long as it is proprietary and not available from other sources.

THE INTERNATIONAL COMPETITIVE SCENE

Before offering some specific suggestions with respect to U.S. policy and the general framework for trade and investment, let me make a few observations about the climate of change and competition which we face today and foresee for the future.

Competitively we foresee a great deal of what we have experienced in the past—namely, continuous change. The chemical industry within the U.S. has been operating under extreme competitive pressures. For example, my company's overall selling price index stands at 79% of the 1957–59 base period, and our profits in absolute terms are still below those realized in 1966 in spite of the fact that since 1966 we have invested $1.6 billion in the U.S. economy to expand and modernize our facilities.

In addition to a continuation of strong domestic competition, we anticipate increasing competition from abroad. Although the U.S. chemical industry has consistently made a favorable contribution to this country's balance of trade and balance of payments, there has been some erosion in this contribution in recent years. While exports have been increasing at about 7% a year, chemical imports into the U.S. have been increasing at the rapid rate of 15%. The American share of world chemical exports has declined from 29% ten years ago, to approximately 20% last year.

While the United States is still a high cost area, in terms of wage rates and salaries, our evaluation indicates some closing of the differential in labor costs between ourselves and our foreign competitors. However, if wage increases continue to exceed gains in productivity, and there is no end in sight to inflation we will lose competitive capability in international markets. This in turn would mean less exports and fewer domestic jobs.

The domestic energy crisis, which is of special concern to those of us who use petroleum as a raw material for the manufacture of chemicals and plastics as well as a source of energy, and the growing role of the Organization of Petroleum Exporting Countries add new dimensions to the problems of international trade. Similarly, environmental control requirements which may be imposed on U.S. manufacturers, but not on our foreign competitors will have an impact on international trade.

Our foreign competitors are vigorous, active, and capable. And they are strongly backed by their governments; in some cases they are owned, at least in part, by those governments.

There is, of course, the "managed economy" of Japan, and well-managed it is. The close interrelationship of industry, finance, labor, and the government in Japan has beeen well documented. Japan's complete reliance on trade is also well known. The upgrading of imported raw materials into more sophisticated export products has become the lifeblood of that island's economy. Their exports have been highly subsidized in order to attain and maintain the needed high volume of production to keep their industrial economy operating in high gear.

As we turn to the European scene we see an increasing role being played by the governments in the industrial sector. Mergers and acquisitions which lead to a stronger, more internationally competitive company are being encouraged by European governments. Further, probably the most disquieting development is the tendency towards state ownership in, or control of, industry in Europe. An official of the EEC estimated last year that 40% of the Gross National Product (GNP) of the EEC was manufactured in state-owned or controlled enterprises, and this figure would soon be approximating 50%.

Historically, the countries of Europe have relied a great deal on exports to increase their GNP. In certain instances exports account for one-fourth to one-third of the GNP of some European countries. Consequently, the exports of these countries have been highly favored—either in the form of subsidization or by way of special tax treatment accorded to income earned on exports. For example, France, West Germany, Belgium, the Netherlands, Italy, and the United Kingdom provide favorable tax treatment to export sales income. Our foreign competitors have become revitalized, full-grown contenders.

THE U.S. ATTITUDE AND APPROACH

In the face of a vigorous spirit of growth and competition abroad, we believe that the attitudes and policies of the U.S. Government will have a significant impact on the ability and capability of American manufacturers to meet the challenge of the 1970's and the 1980's.

Since we have rapidly moved to a point in time where our foreign competitors are now equals, it accordingly seems fitting that the trade policy and the overall foreign economic policy of the United States are being subjected to thorough review. We believe it is time for American foreign economic policy to occupy its proper place in international affairs. We obviously can no longer afford to have foreign economic policy relegated to a position of secondary importance behind the dominant foreign political policy of this country.

There is no doubt that there are some serious problems in this country—particularly in certain sectors where workers have become dislocated from their jobs because of imports. In such instances, we believe specific solutions should be devised to solve these specific problems—not broad-brush legislation which would damn all large international corporations, including those which are making positive contributions to the U.S. economy.

All of these problems come finally to focus in the Congress and in its responsibility for the enactment of legislation setting foreign economic policy. We believe these problems cannot be allowed to drift. We need a new policy and hope the Congress will act this year on new trade legislation. I would like to offer suggestions for such a trade bill:

1. We believe it should include what has come to be called a safeguard mechanism. Such a mechanism should provide for a period of temporary, additional protection for those import-sensitive industries that are threatened with a sudden, disruptive influx of imports. It should be flexible enough to deal with a wide variety of problems and yet capable of providing prompt enough action to be meaningful. A commitment to expanded world trade must be pragmatic enough to provide the adjustments needed until our trading partners adopt similar trading principles.

2. Existing adjustment assistance legislation should be modified so that the criteria for eligibility is less stringent and is more responsive to the need. The programs under adjustment assistance should be extended and improved upon, particularly in the retraining and relocation areas. The emphasis should be on getting those that are dislocated back to work.

In our mind, a time-limited safeguard mechanism in conjunction with a viable adjustment assistance program is essential to the nation in developing and negotiating fair international trade policies and practices with its trading partners. In this connection we believe it would be useful if the major trading nations of the world would develop common principles for both a safeguard mechanism and an adjustment assistance program. Accordingly, we feel the Congress should provide the authority to negotiate such an international agreement.

3. The Congress should also provide the authority to begin multilateral negotiations aimed at eliminating non-tariff barriers.

We believe that, on balance, the elimination of non-tariff barriers contributes to a reduction in the tensions presently found in international trading practices. In many instances it appears that elimination of non-tariff barriers would be helpful in increasing exports of certain U.S. industries. However, in the case of Union Carbide we would not expect a major boost to our exports to result from such negotiations.

4. The United States Government should organize and staff itself to deal with these new realities of international trade. Certainly, the creation of the Council for International Economic Policy in the White House is a step in the right direction, and so is the creation of the Subcommittee on International Trade by the Senate Finance Committee. However, there is more that should be done to assure that foreign economic policy does not take a back seat to our foreign political policy. The economic policy apparatus of the Executive branch should be centralized so that business and the public will know where to go for guidance, assistance, and answers. The structure should also provide for close consultation with Congress and with industry and labor in future trade negotiations.

On the international scene we see the following important needs:

1. The General Agreement on Tariffs and Trade (GATT) was concluded more than 25 years ago. We believe it is appropriate, at a minimum, to call for a reexamination of the basic structure and principles of the GATT to see if it fully meets our needs and those of the world in the 1970's. The United States cannot afford to have its international trading ability hampered by adherence to a set of principles and agreements which may have become shop-worn and out-dated, and which other nations tend to ignore anyway. GATT is becoming very European. Over half of its voting members are either members of, or have some allegiance to, the European Economic Community. Thus, its current voting structure may not provide an equitable voice for the long-term interests of the United States. One suggestion for a restructuring of GATT is the Steering Committee approach proposed by the Rey Report to the Office of Economic Cooperation and Development (OECD).

2. To prevent "pollution havens," the United Nations International Code of Standards governing environmental controls should be supported by this country.

Although we have touched primarily on

those areas affecting international policy, we recognize full well that the domestic policies of the government are equally as important in maintaining the international competitive posture of the United States. In this regard we welcome features which stimulate and encourage productivity in the United States. The investment tax credit and the ADR system of depreciation are, to us, vital elements in a program to make American production more competitive. The DISC provisions for stimulating exports are already beginning to have a favorable effect on Union Carbide's exports from the U.S. We believe that the DISC concept should not only be continued but should be expanded.

There are, of course, many other valuable recommendations and suggestions dealing with an expansion of U.S. exports that we believe should, and will, be considered by the Committee when it deals with this area. We would like to call particular attention, in this respect, to the Report of the National Export Expansion Council's Industry Advisory Committee on Chemicals. That report, published by the Department of Commerce in September, 1972, contains a number of specific and useful recommendations dealing with the problems of international trade in chemicals and allied products—all aimed at expanding U.S. exports.

Obviously, the attitude, policies, and programs of the United States Government will have a pronounced effect on the ability of American manufacturers—whether they are multinational or not—to remain competitive and to maintain a reasonable share of the world's markets.

We hope your review and the legislative considerations of the Congress will not be undertaken in a spirit of retreat or despair. They should be undertaken with the aim of creating and executing an integrated innovative policy designed to make U.S. industry fully competitive with those of the other nations of the industrialized world.

If we were to build a wall around America, we would in essence be saying there is nothing new in the future, that the nation is pleased with the status quo. Yet the future holds so many unknown possibilities—the proof of this is the accomplishments realized in the past. The birth of completely new industries and new job opportunities since the turn of the century in America is more than ample testimony to this fact. We have no reason to believe the decades ahead of us will be any different. We in industry seek your help, understanding, and cooperation in creating an atmosphere in which such opportunities can flourish.

Thank you.

PROD AND TRUCK SAFETY

Mr. HUGHES. Mr. President, highway safety is a concern we have every day as we travel to and from our homes. As a result of my own prior experience, I have been particularly interested in the issue of truck safety and the working conditions of truck drivers.

In October 1971, the Special Subcommittee on Alcoholism and Narcotics, which I chair, held a hearing on the matter of amphetamine use by truck drivers. Several drivers testified that they were made to work such long, irregular hours that they sometimes found it necessary to resort to amphetamines—not for kicks, but rather to reach their destination without collapsing and causing a serious accident due to fatigue.

So far as I know, this problem remains with us. It is coupled with the question of the adequacy of the current regulations regarding motor carrier safety. Fortunately, there is an organization which is conducting research into these issues and which has worked to represent the interests of professional drivers before the Department of Transportation. The organization is PROD—the Professional Drivers Council for Safety and Health.

I am sending a report prepared by PROD to the Secretary of Transportation for the consideration of the Department. I intend to bring the DOT reply to the attention of the Senate.

Mr. President, I ask unanimous consent that a recent report on these problems prepared by PROD be inserted in the RECORD for the information of Members of the Senate.

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

SAFETY HAZARDS FOR PROFESSIONAL DRIVERS

Recently published Bureau of Motor Carrier Safety statistics for the year 1970 disclose that an astoundingly high percent, namely 76%, of the accidents involving interstate carriers where the driver's physical condition was involved, were caused by fatigue.

The problem is in large part due to the Bureau of Motor Carrier Safety's regulations which permit carriers to dispatch drivers on routes which require up to 10 hours of driving time and which may involve the driver's labors up to 15 hours. Because most carriers "relieve" their drivers for periods of time in the middle of their tours of duty for example, for meals, breakdown repairs, loading, etc., the driver's actual work day may be extended up to an unmerciful 20 hours or so. The regulations then guarantee drivers a meager 8 hours off duty before the carriers can send them back out on the highways. During this time a driver is expected to drive home to his family, eat, rest and drive back to the terminal. Or, the driver may get a good night's rest and spend the next day by the telephone only to receive a call from his dispatcher as he is going to bed after a full day. Part of the reason why carriers do in fact push their drivers to the maximum 60 hours work week permitted by the regulations is due to the fact they were exempted from the Fair Labor Standards Act back in 1938, and do not accordingly have to pay their drivers time and one-half for hours worked in excess of 40 each week. The economic incentives are therefore to work the fewest number of employees the longest hours permissible.

Driving a large truck, involves strenuous physical effort. Tractors do not have nice soft suspension systems which cushion the driver from bumps and road vibration. Everyone who has passed a truck on the road has been exposed momentarily to the noise level truckers must live with hour after hour, day after day. Noise, together with heavy traffic, or hazardous driving conditions can also cause considerable emotional stress which contribute to wear down the driver. It is no wonder why so many accidents result from the driver's fatigue.

The drivers' working conditions not only have an adverse effect upon his immediate ability to drive safely, they may have an adverse effect upon his health, and thus his long-range ability to work at all, much less safely. Emotional stresses can lead to high blood pressure and the pounding a driver's body receives due to the virtual lack of suspension in tractors can lead to spinal injuries, kidney, and even respiratory and pulmonary disorders. Noise can be deafening and a recent study by Dr. Wilbert Aronow, of Long Beach Veterans' Administration Hospital, discloses that inhalation of exhaust fumes on heavily traveled highways aggravates cardiac conditions. Yet, the Occupational Safety and Health Administration has deferred to the Bureau of Motor Carrier Safety its jurisdiction over the driver who is thus deprived of the protections of the Occupational Safety and Health Act of 1970.

A most distressing situation exists regarding the enforcement of the existing safety regulations since the Bureau of Motor Carrier Safety has only 103 investigators charged with responsibility for an estimated 3.5 million power units, and carriers may under current law discharge with impunity any driver who initiates or cooperates in an investigation of his employer's allegedly illegal practices. The injustice of such employer recrimination was recognized by Congress which made similar acts illegal under the Occupational Safety and Health Act. Unfortunately, that protection is not extended to the enforcement of safety standards by other departments and agencies to which the Secretary of Labor is deferring under section 4(b)(1) of that act.

Another situation many drivers confront is the company practice of setting up runs which can be completed in 10 hours only under good driving conditions with a powerful tractor and a light load. When they are assigned an ordinary piece of equipment and a heavy load, there is no way they can comply with the 10-hour rule unless they push their vehicles to breakneck speeds whenever they can. When a heavily loaded tractor trailer crawling up a hill on a two-lane highway reaches the top of the hill, the driver must gain all the speed he can in order to maintain an average speed which will allow him to reach his destination within the 10-hour period he is permitted to drive. The drivers themselves, incidentally, are subject to criminal prosecution for violating the 10-hour rule. When these men are assigned routes by their employers which cannot be completed in 10 hours they are caught in a dilemma: If they refuse the run they may be fired, if they take it they will have to violate Federal regulations and run the risk of a criminal prosecution, and if they attempt to comply with these regulations by speeding, they run the risk of being arrested for violating State speed laws and losing their licenses and therefore their jobs. Unfortunately, threat of being fired is often the most immediate, and thus the controlling factor.

Another problem with which some professional drivers must struggle is poorly maintained, and defective equipment. Maintenance can be costly to a company both because a good mechanic is not cheap and because a garaged tractor is not pulling freight and making money. Moreover, the carriers are insured against loss in the event of an accident which might, however, take the driver's life, or the lives of some innocent motorists against whom the odds of surviving the accident are considerably smaller. Bureau of Motor Carrier Safety regulations only require that drivers report mechanical defects to their employers when they complete a run, but there are no provisions requiring the companies to take remedial action based upon those reports; indeed subsequent drivers of the vehicle are not generally permitted to see these preceding driver's report and are thus unaware of the vehicle's defects.

PROD—Professional Drivers Council for Safety and Health—has undertaken to work toward solutions to these and many more problems affecting the drivers' health and safety. Its activities are supported by mem-

ber drivers and by Ralph Nader, who originally sponsored the Professional Driver's Conference in October of 1971, when the drivers' plight first came into the limelight. PROD has successfully petitioned the Bureau of Motor Carrier Safety for a new regulation which will make it unlawful to dispatch a driver on a run which cannot be completed in 10 hours due to known hazardous driving conditions. It has recently petitioned for a regulation to require maintenance logs to be maintained in every truck and bus so that drivers can readily see if any reported defects have not been corrected. PROD is also seeking an overhaul of the hours of service regulations, and implementation by the Bureau of Motor Carrier Safety of the standards promulgated by the Secretary of Labor under the Occupational Safety and Health Act. One of PROD's principal objectives is more effective enforcement of the existing safety regulations together with protection of driver job rights in the face of employer recrimination.

THE 150TH ANNIVERSARY OF THE HUNGARIAN POET, ALEXANDER PETOFI

Mr. GURNEY. Mr. President, the American Hungarian Federation and other American Hungarian groups are celebrating this year the 150th anniversary of the internationally best known Hungarian poet, Alexander Petofi—1823–49.

Petofi's lyrics, a living testimonial to the ideals of romanticism, popularism, patriotism, and democracy, have transcended the usual limitations which the Hungarian language often imposes upon its poets, by being a language rarely spoken by others than Magyars. His impact upon the intellectual world of Europe was great, indeed. To quote the world-famous German post and contemporary of Petofi, Heinrich Heine:

> Only Burns and Beranger can be compared to Petofi . . . he is a poet so astonishingly healthy and primitive in a society full of morbid and reflective thoughts that I cannot find anyone to compare him with in Germany: Even I, myself, have but a few of these natural sounds—but it seems to me that his mind is not very deep and he lacks the sort of Hamlet aspect—which is fortunate for himself and his Nation.

Petofi is a poet of the homeland, of the rural areas, of the Hungarian Plains. His love of home, parents, and simple people is heartwarming even in the romantic age of poetry. Combined with his love of his home and nation is his love of freedom. Perhaps no one in world literature had such an ardent and uncompromising love of freedom, political, and personal. His quest for freedom and hatred of tyranny is tempered only by his compassion for the people and nation—for the people whom he would like to see living in a democratic society, and for the nation which he wants to see living in freedom. It is not in vain that his best known and most recited poem in Hungarian is "the national song" which has the refrain:

> By the God of every Magyar
> Do we swear,
> Do we swear,
> Never to be prisoners
> Any more.

Petofi was, however, more than a poet of tradition and patriotism and social conscience of the nation. He was a freedomfighter who took his principles seriously, he was in the forefront of young Hungary trying to change the political status quo. He recites his "national song" on March 15, 1948, in Budapest and his recital is the alarm bell which commences the yet unbloody revolution.

When Austrian troops invade the country, he becomes a soldier, and when the Russian czar sends troops to Hungary after the defeat of the Austrian Army in 1849, Petofi joins the battle under his beloved Polish general now in Hungarian service, Gen. Jozef Bem. And he falls from Russian bayonets at the battlefield of Segesvar, Transylvania, on July 31, 1849. His death is a gloomy premonition in Hungarian history. 1849 was the first time that Hungarian and Russian forces met as enemies in battle, and it was destined not to be the last.

Petofi's message was never lost on Hungarian youth. The young demonstrators of October 23, 1956, began their quest for freedom and national independence again under his statute in Budapest. No tricks of the present regime could make Petofi into a socialist poet, he remained for all Hungarians the poet of patriotism, tradition, and democracy, and his ideals shone for the short-time the Hungarian revolution of 1956 broke through despite Russian military superiority.

Petofi has a message not only for Hungarians, but to all men who love and cherish freedom. He believed like Abraham Lincoln did that a world half free and half slave cannot last. He wanted to die in the battle for "world freedom" and he believed in the international brotherhood of men devoted to freedom and democracy. Let us hope that we hear his message now over a hundred years later, for cooperation and understanding in the ageless fight against tyranny and oppression which still engulfs his beloved native country.

INDIANA SENATOR SPEAKS TO LEGION

Mr. HANSEN. Mr. President, on Tuesday, February 27, members of the Senate Veterans' Affairs Committee were privileged to hear testimony from Mr. Joseph L. Matthews, commander, the American Legion.

The testimony Mr. Matthews presented was an important contribution to the work of our committee and we were pleased to have his suggestions and views.

At a subsequent meeting, the distinguished Senator from Indiana (Mr. HARTKE), who serves as chairman of the Veterans' Affairs Committee in the Senate, addressed the meeting as to the 1973 legislative program and because of the significance of his remarks, I ask unanimous consent that his remarks be printed in the RECORD.

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

ADDRESS OF SENATOR HARTKE

Thank you very much for giving me this opportunity to share my thoughts with you. Your very able national commander from Texas, Joe L. Matthews, this past Tuesday presented the Legion's 1973 legislative program to the Committee on Veterans' Affairs which I am privileged to chair. I see many familiar faces before me, and I want to thank you again for attending that important hearing. Commander Matthews' comprehensive testimony covered all of the immediate concerns of America's veterans. I think you know that my committee shares those concerns, and that we have already taken important action in a number of the areas discussed on Tuesday. In the two years that the Senate Committee on Veterans' Affairs has been in existence, many substantial improvements have been made in veterans' benefits. There have been increases in disability compensation rates, increases in dependency and indemnity payments, increases in pensions and special housing grants and education benefits, to mention a few. The 93d Congress is only weeks old, and my committee has already acted on legislation concerning the expansion of veterans' health care, national cemeteries, and the establishment of a drug and alcohol rehabilitation program. As I announced Tuesday, we are planning to limit the Veterans' Administration's authority to act unilaterally on matters such as hospital closings, all land transfers, and changes in the disability rating schedule.

As you also know, the Senate acted last fall favorably on legislation to assist the recipients of VA pensions who have been penalized by the recent social security increase. We expect to reconsider this legislation shortly following Senate action on the three bills I just mentioned.

I would like to use our meeting today to explore with you some of the subjects which were not fully discussed on Tuesday, because of time limitations.

First of all, let us talk dollars and cents. I do not think there is a single Member of Congress who disputes the need to enforce economy in the Federal Government. That is an admirable principle. But you know what happens the minute we get down to the business of deciding which programs will take the brunt of the budget-cutting.

When it comes to funding, my committee's stand is very simple: There is no national debt higher than that owed the brave men who have fought for this country, and their families. America's 29 million veterans made enormous sacrifices when they were called to serve their country. And I want to emphasize that veteran's budget outlays are a smaller percentage of the total budget this year than they were in 1963 despite the fact that since then 6 million Vietnam-era veterans have joined our ranks. Now the time has come for this great country to make some sacrifices for the good of its veterans. We will not let them down. In the days ahead, America's veterans, and all of us, will stand firmly together. We are going to look those anonymous budget-cutting bureaucrats in the eye, and when they try to reduce the benefits won by brave Americans on battlefields far from home, this is what we will tell them: Not one American penny goes to North Vietnam so long as there is one American veteran in need.

During the last decade, we drafted young men, particularly the less educated, less affluent young men, and sent them off to fight in a hostile environment. That was the first strike. Then, when these men returned home, as Commander Matthews noted Tuesday, we did not give them parades or victory celebrations. At best, they were ignored. That was the second strike. Now many of these same young men, discouraged and angry enough to begin with, cannot even find a job to support themselves or their families. This

is wrong. It is unfair, it is unproductive, it is downright unAmerican. In an effort to avoid striking out, we passed the Vietnam-era Veterans' Readjustment Assistance Act of 1972. And we hope to enact shortly a comprehensive drug rehabilitation program. But what bothers me is our demonstrated lack of ability to reach the Vietnam veterans who need help the most. And by "Reach" I mean emotionally, as well as physically. I know the American Legion shares my concern, and I would welcome your specific suggestions on how you feel Vietnam Veterans can take advantage of existing programs, how they can play a part in designing new programs to meet their special needs. I submit that the very first thing we should and can do is give every Vietnam Veteran an adequate education or training opportunity followed by a decent job.

These are just a few of the thoughts that cross my mind when I wrestle with the problems confronting Vietnam Veterans. How much better it would be if all the decision-making bodies in the field of Veterans' affairs could have direct input from the men whose problems we are all trying to solve. The American Legion has close to half a million Vietnam-era members, and that is very encouraging. But I wonder how many leaders of the American Legion are Vietnam Veterans. I wonder how many professional level employees of the VA are Vietnam Veterans. I wonder if there is not more we can all be doing to insure that these six million brave young Americans have a say in their own future.

In a pluralistic society as large as ours, it is accepted that individual needs are more likely to be met when they are expressed by the united voice of many citizens who share that given need. Put more succinctly, "United We Stand, Divided We Fall." I hope none of us fall prey to the easy rationalization that veterans of the Vietnam war are just not joiners.

It is not only the five million Vietnam era veterans who will suffer if we, the men and women who have fought for this country, fail to remain united. It is all the veterans of all the wars who will suffer. It is the 29 million veterans and the 66 million members of their families and the four million survivors of deceased veterans who will suffer, and that is just a little short of half this country's population.

There will come a time when Congress, the executive branch, and organizations such as the American Legion will be in the hands of the Vietnam war generation. If the members of this new generation feel that they have not been helped by those of us in the veterans field, they may feel little compunction about reducing the benefits which you and I have fought so hard to establish—the benefits you and I are counting on as we grow older. So I say to you that it is in the interest of every person in this room, in the interest of every member of Congress and every member of the American Legion, to help solve the problems facing the veterans of our most recent war.

We have done a great deal, but we must do more.

In addition to tinkering with programs that were established in response to the needs of the veterans of earlier, different wars, we must also seek new directions. We must try to solve problems that did not exist after World War I or World War II or Korea. We must encourage the participation of the men who can tell us what these new problems are.

We cannot replace the time these men lost in Vietnam. But we can do much to replace their health, their jobs and their hopes. I am confident that the American Legion will be a leader in this noble effort.

NEW ENGLAND'S AGRICULTURAL NEEDS

Mr. McINTYRE. Mr. President, so often when New England is discussed by people around the country they talk about the region as if it was solely an industrial region, but I wish to call the attention of my colleagues, and the Nation, to the fact that though agriculture is not the major employer that it once was; it is still an important source of income, and has a great economic impact on the lives of the people of the Northeast. It is an industry that deserves our help and support.

I recently received a letter from a friend and constituent, Mr. Robert J. Whitney of Concord, N.H., in which he said:

Somehow we collectively must show the Secretary of Agriculture that the people in New England do make a living from farming and that agriculture is of major economic importance to the Northeast.

Mr. President, today the farmers of my State and New England face the major problems of finding feed grains, sufficient cars for moving grains and prices which are discriminatory.

Mr. Whitney enclosed, with his letter, a report by the New England Grain and Feed Council that I think points out the needs of the farmers of my region, and demonstrates the need for positive action in their behalf.

Mr. President, I ask unanimous consent that this report be printed here in the RECORD.

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

FEBRUARY 6, 1973.

THE NEW ENGLAND FEED GRAIN AND FEEDSTUFFS CRISIS

Since last October, New England poultry, dairy, and livestock producers have been confronted with a mounting crisis in the price and supply of essential feed grains and feedstuffs. Directly concerned with the problem, and closer to the situation than most, are the feed manufactures and ingredient suppliers who make up the membership of the New England Grain and Feed Council. The statement, analysis, and recommendations which follow are based on information supplied by this group. Specific documentation of supply problems, and letters from feed manufacturers are included as an appendix to this report.

AGRICULTURE AN IMPORTANT SECTION OF NEW ENGLAND ECONOMY

While New England's economy is admittedly primarily an industrial one, and the farming sector has shown some decline in relative position, agricultural production in absolute volume and cash receipts from farm marketings, particularly in livestock and poultry, is greater than ten years ago, and remains a very important segment of New England's economy.

CASH RECEIPTS FARM MARKETING 1971

[In thousands of dollars]

	Livestock and livestock products	Crops	Total
Maine	154,665	88,987	243,652
New Hampshire	41,211	14,179	55,390
Vermont	155,416	14,919	170,335
Massachusetts	82,535	82,190	164,725
Rhode Island	9,280	10,652	19,932
Connecticut	98,637	66,999	165,636
Total Northeast	541,744	277,926	819,670

Source: Farm Income Situation, FIS 220, Economic Research Service, U.S. Department of Agriculture, July 1972.

NEW ENGLAND IN VULNERABLE POSITION

The area is in a particularly vulnerable position because of virtual total dependence on outside sources for feed grains and nearly all feedstuffs, because of distance from such sources, and dependence upon a single mode of transportation—namely, rail. Adjustments to shortages and rail transportation problems through the drawing upon home-produced or local supplies or alternative modes of transportation which are possible in most other areas, are impossible in New England since there are no local suppliers nor alternative transportation modes.

The feed deficit position of New England is illustrated by the following statistics as assembled by U.S.D.A. in the E.R.S. publication, Stat. Bul. 446 Supplies 1972 "National Livestock—Feed Relationships".

FEED GRAIN PRODUCTION, CONSUMPTION 1970

[Thousand tons]

	Production	Consumption	Deficit
Maine	24	963	939
New Hampshire		159	159
Vermont	4	309	305
Massachusetts		390	290
Rhode Island		42	42
Connecticut		408	408
Total, Northeast	28	2,171	2,143

THE PROBLEM OF RUN-AWAY GRAIN AND FEEDSTUFF PRICES

U.S.D.A.'s Feed Grain Index, as of January 31, 1973, stands at 127.6 vs. 104.6 on October 3, 1972, and 96.9 in January a year ago—a rise of 21% since October and 31% from a year ago. The Feedstuffs Index (protein and grain by-product feeds) as of January 10, 1973, is 227.6, compared to 129.9 on October 3, 1972, and 102.8 a year ago—a rise since October of 75% and 121% over a year ago.

Specifically, for New England, the following table shows the price advances experienced in major poultry and dairy feed ingredients (carlot, delivered in Boston, per ton).

	Jan. 29, 1973	Jan. 9, 1973	Dec. 11, 1972	Oct. 2, 1972	July 3, 1972	Jan. 9, 1972
Corn, No. 2, yellow	$68.13	$72.60	$75.00	$65.00	$59.40	$60.61
Soymeal (49 percent)	234.00	221.00	175.40	139.80	128.80	108.40
Brewers' grains	112.00	110.25	98.40	83.40	58.40	72.00
Gluten feed	96.00	100.73	86.90	70.80	60.80	72.43
Distillers' grains	113.00	107.75	103.40	91.40	86.40	76.00
Molasses (cane)	48.74	43.61	32.49	30.78	29.93	28.22
Meat and bonemeal	235.00	210.00	165.00	144.00	126.50	114.00
Alfalfa (17-percent dehydrated)	126.00	115.00	99.50	87.50	74.00	77.00

While corn has shown some signs of stabilizing in price, the fantastic price advances in protein and grain by-products feed, particularly soymeal, continues.

These price advances in basic feed ingredients have substantially increased production costs of New England producers of eggs, broilers and milk. The cost of poultry and dairy rations has increased about 30 dollars a ton since last July. Using standard conversion figures, the increased cost for feed alone is as follows:

Standard conversion

Eggs (brown) 5.0 feed/doz.[1]
Broilers (evisc.) 3.0 feed/lb.
Milk 0.8 lb/qt.

Increased cost

Eggs (brown), 7.5 cents per dozen.
Broilers (evisc.), 4.5 cents per pound.
Milk, 1.2 cents per quart.

While there has been some advance in the farm price of these products, the full effect of these cost increases has not yet reached the consumer, as it must eventually if adequate supplies of these essential foods are to be maintained.

THE PROBLEM OF SHORTAGES

Of more immediate concern, is the great difficulty of securing supplies of feed grains and feedstuffs, particularly soymeal, certain corn by-products, and molasses. Our survey, covering all the feed manufacturer members of the New England and Grain and Feed Council, reveals, without exception, that all have experienced difficulty, all have had to make undesirable substitutions in formulas, and in some cases, have had to shut down for lack of supplies and to ration customers.

There are two facets to this supply problem. One is the acute shortage of rail cars and the inability of suppliers to ship because no cars are available. The other is the preference being given to foreign sales in the case of processed by-product feeds, soymeal and corn by-products particularly. Such sales have been exempt from price control regulations, and we believe this to be a major factor in the difficulties being experienced by domestic users in securing supplies of processed feed ingredients.

RECOMMENDATIONS

Of the many influences involved in the present feed grain and feedstuffs crisis, we deem the impact of export demand to be the most important. In the interest of holding down inflation and assuring adequate supplies of essential foods, measures to protect domestic supplies of feed grains and feedstuffs demand immediate attention.

1. *On the Rail-Car Shortage.*

The steps taken to date by I.C.C., namely Service Order 1112, the car service rules, plus surveillance at loading points and ports, plus the A.A.B. embargoes at certain ports, while steps in the right direction, have obviously not been adequate, as the situation has worsened as far as New England receivers are concerned.

We recommend the immediate inauguration of some sort of a priority system for domestic rail shipments of grains and feedstuffs.

Documentation of specific examples of the rail car shortage is presented in Sec. 1 of the Appendix to this report.

2. *On the Protein and By-Product Feedstuffs Shortage.*

Production levels and supplies of most feedstuffs is running at a level over that of a year ago, yet our feed mixers report great difficulty in obtaining supplies. The price increases in grain by-product feeds has exceeded by a considerable margin the price advances in the grains from which they are derived.

[1] Includes feed required to grow replacement pullet.

Price control regulations on processed grains and feedstuffs have not applied to export sales and this has been the major reason for the inability of purchasers for domestic use to obtain supplies. We are not entirely clear as to the application of Phase 3 price controls, although we understand that animal feeds are exempt. We strongly urge that any remaining regulations be such as not to put domestic users at a disadvantage.

Reference material on the ingredient shortage situation is included in Sec. 2 of the Appendix to this report.

3. On Exports.

There is little question that export demand is a major factor in both the price and supply problem.

While we recognize that agricultural exports, including grain and feedstuffs, are of great importance in international relations and the balance of payments problem, the fact remains that the great increase of exports this fall and winter, in combination with poor harvest conditions and increased domestic demand, has resulted in a chaotic condition in the grain and feedstuffs markets and in transportation.

Positive steps need to be taken to assure adequate domestic supplies and the current transportation mess demands immediate remedial action by both the legislative and executive branches of the government.

The specific nature of this action, whether a temporary limitation on exports, governmental assistance to the railroads to provide additional equipment, moves to improve the efficiency of railroad services, or other measures, demands the most thoughtful consideration of our elected representatives.

EVANS AND NOVAK COLUMN IN WASHINGTON POST WITH REFERENCE TO SPEECH ON SENATE FLOOR BY SENATOR BENNETT

Mr. BENNETT. Mr. President, on March 1 I made a speech on the Senate floor describing the apparent involvement of the Salt Lake City community action program in distribution of an anti-Nixon leaflet.

Mr. Rowland Evans and Mr. Robert Novak, distinguished syndicated columnists, made reference to this matter in their column of March 4, 1973, in the Washington Post. I ask unanimous consent that this item from the column be printed at this point in the RECORD.

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

In fighting President Nixon's evisceration of the anti-poverty program, the Community Action Program (CAP) in Salt Lake City is doing again what has caused so much trouble for anti-poverty activists all over the country: a federally-financed agency moving into political action against elected public officials.

An anti-Nixon flyer distributed in Salt Lake City does not disclose its sponsors, but in fact was prepared at and mailed from the county CAP office, issuing this broadside:

"Dick Nixon has a budget for big business. Nixon proposes the elimination or severe cutbacks of all programs providing services to those most in need, the poor, lower income and elderly persons, with no funds for local government to pick up these programs. In contrast, the budget items of defense, space, etc., are increased and tax loopholes for the affluent are continued."

Those wanting more information are given two unidentified Salt Lake City telephone numbers—one the CAP office, the other the Model Cities Office across the street. Callers are asked to volunteer to fight the Nixon program.

When we called the CAP office, we were told to contact the office's full-time central city coordinator, James Reed. But Reed, whose salary is partially paid by the federal government, told us he was not in charge of handling the flyer. Who is? "The people are in charge," he declared.

Reed admitted the flyer had been prepared at the CAP office and mailed on their subsidized postage meter to the CAP mailing list. But he claimed that none of the $606,000 in annual federal funds for the Salt Lake County CAP was used (which would be illegal), contending the flyer was financed with funds from the county government. Actually, federal and local funds in such anti-poverty offices are often hopelessly intermingled.

AGRICULTURE, A METROPOLITAN CINDERELLA?

Mr. YOUNG. Mr. President, many of us from farm States have been concerned at the lack of interest and understanding of agricultural problems displayed by mass media. Too often, the major magazines and newspapers, radio and television broadcasters publicize erroneous and misleading information about so-called farm subsidies and alleged scandals. It is no wonder that the consuming public gets the wrong impression, and farm producers end up as some sort of villians.

An exception to this practice of criticism of farm programs appears in the February 24 issue of Editor and Publisher, the principal publication for the newspaper industry. It was written by Mr. Terence L. Day, a farm writer and researcher from the State of Washington. The article was sent to me by Mrs. Blanche Denison, copublisher of the Towner County Record Herald, Cando, N. Dak., who is an excellent farm writer herself. Mr. President, I ask unanimous consent that this article be printed in the RECORD as part of my remarks.

Mr. President, the article, titled "Agriculture, A Metropolitan Cinderella?", shows an unusual understanding and sympathy for the problems of agriculture. The writer champions the great achievements of our food producers. He also warns that all the social reform and anti-poverty programs in the world will be of no benefit if America's unparalleled agricultural miracle is permitted to wither.

This article calls attention to the continuous decline of farm population—something I am very concerned about. Now, fewer than 5 percent of the Nation's population are farmers. It is unfortunate that this Nation, once largely rural in nature, has shifted so drastically and to the point where here is only a handful of responsible people in the Nation's press who speak up in defense of agriculture—the industry I still consider the most important of all.

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

AGRICULTURE, A METROPOLITAN CINDERELLA?

(By Terence L. Day)

There is a void in modern reportage, a gulf which could lead to a major crisis in America.

Never in the world's history have so many been so dependent upon so few, or so ignorant of their situation, as Americans today.

More than 95 percent of the nation's people are dependent upon the less than 5 percent who man the nation's farms.

Agriculture is a metropolitan Cinderella who labors hard for urban America, but who works without appreciation because there is a knowledge chasm left unbridged by modern journalism, or inadequately bridged at best. That vital informational link, the farm beat, has been plowed under or sent out to graze on the south 40 on most urban newspapers today.

WRONG NEWS POLICY

A news executive recently explained his paper's abandoned farm beat: "We don't have very many farmers in our circulation area any more."

Unfortunately that philosophy is all too apparent in today's newsrooms. What J. Henri Fabre, the French entomologist and author, said of history is equally apropos of journalism: "History . . . celebrates the battle fields whereon we meet our death, but scorns to speak of plowed fields whereby we thrive; it knows the name of the king's bastards, but cannot tell us the origin of wheat. That is the way of human folly."

Journalism celebrates city streets whereon we riot, but scorns agriculture whereby we prosper; it reports which movie star is living out of wedlock with whom, but does not tell us about our source of food.

Today's newspapers may not have very many farmer subscribers, but their readers all have one thing in common: they eat. And as long as they do, newspapers should take a vital, intelligent interest in agriculture.

WRITE FOR CITY READERS

Editors don't expect an aerospace editor to write for aerospace employes. They don't ask science writers to write for scientists, nor education writers to slant articles to educators. Political writers aren't asked to write for politicians, and transportation writers don't write for truck drivers.

So why should farm writers write for farmers? They shouldn't. They should write about agriculture, for city folk. But all too much of the little farm writing today is of small value or interest to urbanites because it does not put agriculture in terms they can understand.

The reasons for strong farm beats are manifold, but paramount are reader interest and public interest. Readers are interested in farm news that is written for them, and nowhere is the need for farm editors to serve the public interest more apparent than in the hubbub over food prices.

The most prevalent and most inaccurate myth in America today is the "high" food prices legend believed by almost every consumer and promulgated by nearly every newspaper and television station in America.

Why does almost everyone think food is expensive? Because today's news media fails miserably to understand agriculture and to report it accurately. It is a digression, but you won't believe that food is cheap unless we document it, so let's digress.

Agriculture has given America the lowest-cost food bill in the history of mankind—16 percent of disposable income in 1971, compared with 23 percent in 1950, according to U.S. Department of Agriculture statistics.

It's an unpopular story, but our great agricultural progress has reduced food costs by 30 percent during the past 21 years. As a bonus, Americans also get a greater variety of food, a higher standard of eating (including twice as much beef), less kitchen drudgery, and more meals "out-on-the-town."

America's food bill in 1971 was $118 billion—a whopping $51.7 billion less than it would be if Americans still paid 23 percent of their income for food as they did in 1950.

That is $51.7 billion which Americans spent for second cars, trail bikes, boats, stereophonic sound systems, fancy furniture, summer cottages, dishwashers, color television, and a host of other consumer goods. But how much is $51.7 billion? It is $15.1 billion more than the total value of all automobiles manufactured in the United States and of the distribution costs of all foreign-made automobiles sold in the United States in 1969! (Based on U.S. Statistical Abstract figures.)

In other words, the unparalleled efficiency of the American farm is one of the basic reasons for the high and still rising American standard of living, a principal difference between our standard of living and that of other countries. (Englishmen spend 29 percent of their income for food, Italians 45 percent, and Indians 80 percent.)

SHOULD GIVE THANKS

Instead of complaining about "high" food prices, we Americans should be on our knees giving thanks for our share of the $51.7 billion a year the nation saves on groceries. It is the very substance of our high standard of living.

But, you say, look at what's happening to food prices. Meat has gone up, eggs have gone up. Yes, and they'll come down, too. But not with the same fanfare with which they went up.

Recently when the price of eggs threatened to reach $1 a dozen the news was headlined for days on end. But when they dropped to 59 cents a dozen, our local newspaper didn't have a single line of copy with that news.

The result is a public misimpression that prices are always going up. That's true of cars, clothes and a lot of other things; but not of food. Food prices fluctuate because farmers cannot control production, and prices rise and fall with supply.

Further, reporters have wholly failed to put food prices into perspective with wages. Big, black headlines shout the news that food prices are expected to increase at an annual rate of about 4.5 percent during the first half of 1973. But what reporters have compared that with anticipated wage increases?

The Nixon Administration says 5.5 percent increases are acceptable, and few authorities feel that wage increases will be held that low in 1973.

It doesn't take an Einstein, or even a high school math teacher, to calculate that if food prices increase 4.5 percent and income rises 5.5 percent, the precentage of our income spent for food will decrease. The increase we see in food prices is inflation—and food is an anchor trying to hold inflation down. Food prices are not contributing to inflation.

With urban America and the press which serves it both ignorant of the realities of agriculture, there is a real threat to the agricultural abundance which is the foundation upon which America has become the world's wealthiest nation—a nation with the highest standard of poverty that the world has ever known.

How is America threatened?

With 95 percent of her population in the cities, and the one-man, one-vote rule, the farm bloc has withered to a tiny voice in a distant pasture.

Unless the farm-city information gap is bridged by the press, it is entirely conceivable that an urban-dominated, urban-oriented Congress could pass legislation which would wreak havoc with agricultural production, or fail to pass legislation essential to a healthy agriculture.

It would be tragic for America to learn the hard way that all of the social reform and anti-poverty programs in the world will be of no benefit if America's unparalleled agricultural miracle is permitted to wither. For modern agriculture is not a permanent miracle which can be ignored once achieved. It is a miracle which must be repeated every year.

But the moment America goes on a binge of anti-farm legislation, capriciously banning vital agricultural chemicals, wildly slashing farm programs, and arbitrarily siding against farmers on national issues; the nation will be sowing the seeds of wretchedness for the cities as well as for the farms.

Food prices will really become high, and with less to spend for other things there will be massive layoffs in city factories which will lose much of their market for consumer goods.

Re-creation of farm beats to report agriculture for city audiences, to give America more balanced reporting on issues touching the farm, would be a small price to pay for prosperity insurance.

DR. WILLEM KOLFF AND MR. PAUL WINCHELL

Mr. BENNETT. Mr. President, for years Dr. Willem Kolff of the University of Utah has been recognized as a pioneer in research on artificial organs. He invented the first artificial kidney that patients could use, and has successfully kept research animals alive for extended periods with an artificial heart.

Now Mr. Kolff has been joined in his research effort by the well-known ventriloquist, Mr. Paul Winchell. Mr. Winchell, in addition to being a fine entertainer, is also a very talented inventor. One of his inventions is a mechanical heart, which he designed and patented. Mr. Winchell is participating with Dr. Kolff in the University of Utah's artificial heart-research program, and has turned his patent over to the university.

This week's issue of Time magazine carried a most interesting account of this unusual collaboration between a talented doctor and a talented entertainer. I ask that the magazine story be reprinted at this point in the RECORD.

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

WINCHELL'S HEART

Anyone who has watched him manipulate the wisecracking dummy he calls Jerry Mahoney knows that Paul Winchell, 50, is a talented ventriloquist. But few realize that he may be even more gifted off-camera than on. A gadgeteer with a flair for mechanical problem solving, Winchell has contributed to his own profession by developing new techniques for making dummies move and for animating films. Even more remarkable, he has also contributed to medical science. He has designed and patented a mechanical heart and is now participating in the artificial-heart research program at the University of Utah's medical school.

Inventing comes almost naturally to Winchell, a graduate of a New York school of industrial arts. At age 13, he realized that his sinus trouble seemed to ease when he held his nostrils open, so he contrived a V-shaped gadget to do the job. Later he patented a transparent lens cap for cameras (to help the amateur who shoots with a lens cap on) and invented a device made out of plastic ice cube trays, used for transplanting seedlings.

At the age of 35, after returning to school at Columbia University, Winchell began discussing medicine with several doctor friends; he soon was borrowing their medical books and looking over their shoulders in operating rooms. After watching doctors lower a patient's body temperature prior to an operation by placing him in a tub of ice, Winchell invented a refrigerated, rubberized suit to do the job more easily.

But Winchell's most impressive invention is the artificial heart, which was inspired

in part by his mother's death of heart complications following a major infection. "I couldn't see any reason against an artificial heart; it doesn't do anything except pump," said Winchell. "If properly conceived and tied into the circulation system I saw no reason why it couldn't be successful."

After patenting his plastic heart pump in 1963, Winchell offered it to the American Medical Association and American Heart Association. Neither was interested at the time because Winchell had not produced a working model. But the University of Utah's Dr. Willem Kolff was. Kolff, who had already invented the first artificial kidney that patients could use, looked over Winchell's design and found it similar to one he had been working on. He invited the entertainer to work and experiment at the medical center (where Winchell also assisted in transplants).

Winchell has been so impressed by Kolff's work that he has turned his patent over to the University of Utah, where Kolff has already kept calves alive for as long as 14 days with artificial hearts of his own design. Winchell's work may help improve upon that record.

PRESIDENT'S PROPOSALS UNDERSTOOD CLEARLY AND INTERPRETED ACCURATELY AT THE GRASSROOTS LEVEL

Mr. HRUSKA. Mr. President, I sometimes fear that the flood of congressional rhetoric rising in opposition to the President's proposals will so overwhelm the average citizen that he will never have an opportunity to understand clearly the real choices before us.

Fortunately, I have at hand some reassuring evidence that the President's proposals are being understood clearly and interpreted accurately at the grassroots level.

The Blair, Nebraska, Enterprise has a widely respected editorialist, J. Hilton Rhoades. Two of his recent editorials, "A Time for Self-Reliance" and "The Budget-Cut Game—Washington's Favorite Pastime," go directly and succinctly to points which seem to elude many editorialists and columnists who ply their craft here in our National Capital.

I commend Mr. Rhoades' editorials to all Members of the Senate and ask unanimous consent that they be included in the Extensions of Remarks.

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

A TIME FOR SELF-RELIANCE

(By J. Hilton Rhoades)

In an effort to fulfill his inaugural wish for a society geared to individual self-reliance, President Nixon is making moves to eliminate many federal subsidy programs. It has been forecast that the administration will take aim at public housing, rural assistance, education, and public employment.

Some weeks ago, the President took a commendable first step when he eliminated the federally subsidized 2 per cent loans for electric cooperatives, a leftover from the New Deal era. The co-ops have howled in protest, but other citizens, who have to pay considerably more in interest when they borrow money, are likely to be pleased that the co-ops at long last will be required to come somewhat closer to paying their way like everyone else.

Other howls are coming from those involved in the subsidized housing business. The public should know that there is a new class of subsidy housing builders who aren't truly a part of the free enterprise system. They live off federal subsidy programs devised by politicians. They have a vested interest in Big Government and in giveaways of the taxpayers' money.

The public undoubtedly will be treated to a variety of sob stories in connection with the housing moratorium. In South Carolina, Dr. John A. Chase, the administrator of the Columbia Housing Authority, said in protest against the subsidy moratorium: "What is to be the answer for the 1,800 families on the Columbia waiting list for apartments? What is to be the answer to the 100 additional applicants every 30 days? What is to be the answer for hundreds of hundreds of families who are going to be displaced in South Carolina by highway construction, urban renewal and the like?"

The answer to those questions is that the people who have had great expectations of subsidized housing will have to fend for themselves like millions of others who don't expect Uncle Sam to solve their personal housing problems.

President Richard Nixon put it very well in his inaugural address when he said: "Let each of us ask, not just what will government do for me, but what can I do for myself?"

In Arkansas, Jim Bradley, a state Office of Economic Opportunity Housing specialist, complained that the federal freeze on subsidized housing could cost the state more than $60 million in the next 18 months. He failed to mention, however, how much the taxpayers in Arkansas and other states will save as a result of the freeze.

Incidentally, the OEO types have other reasons to feel blue. President Nixon has announced plans to dismantle the Office of Economic Opportunity. The OEO was the principal "Great Society" instrument in its fault-ridden "war on poverty."

The Johnson administration poverty programs cost billions of dollars and produced almost zero results. They created huge cadres of community action workers who managed to spend enormous sums without actually helping communities solve their problems.

Thus it is time to close down the Great Society programs, to shut off the food stamp distribution which have been a scandal and an insult to productive citizens who have to buy their own groceries.

It is yet to be seen how vigorously the Nixon administration will move to eliminate the entire range of Great Society federal social programs. The faster the administration moves, the happier the taxpayers will be.

The liberal bloc in Congress will resist the elimination or curtailment of vintage giveaway programs. But the administration, with firm leadership, should be able to get tremendous grassroots support for long overdue fiscal reforms. The American people are likely to subscribe strongly to a new emphasis on self-reliance.

THE BUDGET-CUT GAME—WASHINGTON'S FAVORITE PASTIME

(By J. Hilton Rhoades)

How would you react to the President's new budget, if you were a Member of Congress?

The President has proposed cutting off a number of programs that were of benefit to various groups (often groups other than those that were supposed to benefit). The people who suffer from these cuts will be angry. Some of them might be your constituents.

If you were of a party or an ideological persuasion different from that of the President's, there would be a great temptation to make some political points by accusing him of cruelty to the poor, etc.

On the other hand, the fact is that even with the much-publicized cuts, the new budget is up $18.7 billion over last year's. That's a 7.5% increase.

And as a congressman you would know—or should know—that there is no "extra" money to be found in the budget. Restoring one cut would require cutting something else. Either that or increasing the deficit or raising taxes.

Increasing the deficit would risk accelerating inflation. You know that your constituents dislike both inflation and tax increases . . . but would they understand what caused them?

EASY WAY OUT

Some congressman have already decided to follow the dictates of political expediency (or their perception of it). They damn the President for withholding funds, seek restoration of every program of any conceivable benefit to their constituents, and, no doubt, prepare to blame the White House for any subsequent inflation or tax increases.

That game will work as long as Congress abdicates its primary financial responsibility in favor of using the Executive Branch as a scapegoat.

If the Congress seriously tried to match its allocations to the Nation's financial resources, then the congressmen would have to suffer the displeasure of those who felt slighted. How much more easy it is to pass unrealistically high funding bills for everything, then blame the President for "withholding" money that exists only on paper. That way, a congressman can take credit for his generosity, while escaping blame for the serious consequences of it.

A SOLUTION

Is there a solution? Yes. The game will stop when voters understand how it is being played. But that requires a more realistic attitude on our part, as citizens. The congressmen react the way they do only because they are under pressure from their constituents. We must learn that cuts have to hurt us, too. The cuts can't all take place in "somebody else's" favorite program. And that applies to programs that benefit business, also.

We have got to face the fact that we do not have an unlimited supply of money. People understand that on the personal level, but for some reason, very few carry the lesson over to the federal government.

Once we have grown immune to demagogic appeals to our selfish instincts, then Congress will be able to take a more sincere look at the procedural reforms that could help to get a grip on runaway budgets. And there are such reforms—things like establishing one committee to consider both appropriations and revenues, instead of splitting the responsibility anywhere from a dozen to 535 ways.

Some congressional leaders have become alarmed enough to begin exploring the necessary reforms. Others still prefer the easy way out. The reaction they get from us will decide which attitude prevails.

PEARL BUCK, FAMOUS DAUGHTER OF WEST VIRGINIA, WILL BE REMEMBERED AS A GIFTED WRITER AND COMPASSIONATE HUMANITARIAN

Mr. RANDOLPH. Mr. President, Pearl S. Buck, one of the most famous daughters of West Virginia, died today at the age of 80. She was a native of Hillsboro, Pocahontas County.

She was a great lady, a compassionate humanitarian, and a gifted writer.

Pearl Buck became an expert on China and her exceptional literary skills provided her readers with a unique insight into the Asian Continent.

Her parents were Presbyterian missionaries who served in China, shortly after their marriage in 1880. After 12 extremely difficult years during which

period all of their children died of tropical diseases, the couple returned to the United States—to Hillsboro, W. Va.—where Pearl Buck was born on June 26, 1892.

During her early infant years, the couple returned to China taking the baby girl with them. Her childhood was spent in the historic city of Chinkiang, where the grand canal crosses the great Yangtse River. The young girl learned to speak Chinese before English. She often recalled her vivid memories of the Boxer Rebellion, after which she returned to the United States.

At the age of 15, Pearl Buck returned to China to attend a boarding school in Shanghai.

It was, perhaps, because of these unusual experiences that she became an American authority on China. These experiences, together with her education in China, her subsequent marriage to John Lossing Buck, an agriculture teacher, and their lives together in China, that formed the basis for her best known novel, "The Good Earth."

Pearl Buck is the only American woman to have received the Nobel Prize for literature. She also achieved the Pulitzer Prize and hundreds of other distinguished awards for literature and her humanistic accomplishments.

It is this latter work which brought new fame and approbation to Miss Buck in recent years. Her writings served as a bridge of understanding between nations while her selfless service to humanity served to bridge the understanding between peoples of the world.

Miss Buck founded in 1949, the Welcome House, Inc., an adoption agency, which secures permanent homes and parents for children of mixed Asian-American blood.

The Pearl S. Buck Foundation was established in 1964 as an agency devoted to the health, education, and welfare of children born in Asia of American fathers and Asian mothers who remain in the lands of their birth. For this important work, Pearl Buck received from the Government of the Republic of South Korea its highest award of honor.

In 1966, the West Virginia Society of the District of Columbia honored her as its distinguished Daughter of the Year.

The Pearl S. Buck Birthplace Foundation, through the sponsorship of the West Virginia Federation of Women's Clubs purchased the home site at Hillsboro, W. Va., where she was born, and it is being restored. It will serve as a memorial to this native of our hill country and will contribute to a fuller understanding of her productive career just as Miss Buck ennobled the human spirit.

People in many parts of the world will recall her devotion to worthwhile causes and the abundance of her good life.

MR. NIXON TELLS IT NOT QUITE LIKE IT WAS

Mr. KENNEDY. Mr. President, the radio address made by President Nixon last weekend described the Federal social legislation of the 1960's as "paternalism, social exploitation, and waste."

Mr. Nixon's remarks have been soundly and roundly criticized in an editorial and in an article by reporter Tom Wicker, both appearing in the February 27 issue of the New York Times.

The editorial stipulates—as any reasonable observer must—that some programs enacted in the 1960's are not working well; some need more time to reach fruition; and some have been, and still are, underfunded. Some are working extremely well. In other words, the editorial asks programs to be judged by reasonable standards, improved where possible or replaced if necessary, but not abolished by fiat.

Mr. Wicker's column questions Mr. Nixon's assertion that the Democrats are content merely to "throw dollars" at problems, and he wonders whether the President's revenue-sharing schemes would produce a dollar-throwing splurge far beyond anything that resulted from the legislation of the 1960's.

Mr. President, I ask that the two items be reprinted in the CONGRESSIONAL RECORD. I believe that they are informative and timely; and I believe that they should be heeded.

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

THE SHORT ROPE

Let us suppose that a man is drowning thirty feet from shore. A rescuer throws him ten feet of rope. He drowns. It would scarcely be logical to conclude: "Rope is of no use in the prevention of drowning."

Yet that is the kind of logic enshrined in President Nixon's budget and set forth over the weekend in his radio talk on "Human Resources." Once again, the President blandly asserts that the Federal programs enacted in the last decade were "based on the assumption that any human problem could be solved simply by throwing enough Federal dollars at it." Money flowed from Washington, according to Mr. Nixon, "in a seemingly inexhaustible flood."

There was no such assumption and no such flood. It is absurd to suggest that sophisticated public servants such as John Gardner and Wilbur Cohen, who served successively as Secretary of Health, Education and Welfare in the Johnson Administration, had the illusion that any human problem could be solved by simply spending money. More to the point, the money was not there to be spent. Every Great Society social problem was seriously underfunded—at levels below Congressional authorizations—because of spending on the Vietnam war between 1966 and 1969.

The nation has difficult and complex problems in educating children from slum families, in providing decent housing for the poor in big cities, in training the unemployed and the seeming unemployable, in delivering adequate health care to the elderly and the impoverished, in aiding rural poor on marginal and substandard farms, in rescuing idle youth and strengthening broken families.

In talking about these problems, President Johnson was sometimes guilty of excessive optimism, because some lives are so blighted that they cannot be turned around and some social circumstances are so adverse that progress can only be slow. But President Johnson was right to try to solve them. It does his successor no credit to distort the record.

Some of the social programs enacted in the 1960's need more money. Others need more time. Still others are not working well and can be improved or halted. When experiments are begun, it is in their nature that some will succeed, some fail, and some show mixed results.

These programs need patient, determined leadership, and they need careful evaluation, sympathetic as to goals and objective as to results. That leadership and that evaluation are what the programs of the 1960's have not received from today's indifferent caretakers.

Instead, all these social initiatives—Medicare, Medicaid, rent supplements, Title One help for children from low-income families, Head Start, Job Corps, community health centers, legal aid for the indigent, and many others—are lumped together and disparaged as ideas that were tried and shown to be a "dismal failure."

It is easy to abandon the difficult effort to help the approximately thirty million who live in poverty, to stigmatize them as drones and welfare cheats, to revert to the old sink-or-swim philosophy. It may even be temporarily popular. The nation has taken that easy way before and lived for a time with its uneasy conscience. But ultimately the struggle for social justice has to be renewed. It will be again.

TELLING IT NOT QUITE LIKE IT IS

(By Tom Wicker)

President Nixon is on reasonably firm ground in contending that many of the anti-poverty and other social programs created by Democratic administrations in the 1960's failed in practice. But the way Mr. Nixon made the case was so partisan and self-serving that he probably was not too persuasive to those considerable number of people who still need convincing.

It was almost incredible to hear him refer in the same radio speech to "one of the most unselfish missions ever undertaken by one nation in defense of another"—the President's view of the war in Vietnam—and then to "paternalism, social exploitation and waste"—his view of Democratic social legislation of the same period. Those who saw the war absorbing funds vitally needed in many areas of American life, and who know that its deceptive financing was the main engine of the inflation with which Mr. Nixon still must wrestle, can only wonder at his sense of priorities.

Mr. Nixon repeated, moreover, his familiar formulation that the Johnson Administration believed it could solve a social problem "by throwing dollars at it." Thus, he took disapproving note of what he said was the "seemingly inexhaustible flood" of money leaving Washington in those years, only to be reduced to "a mere trickle" by the time it reached the supposed recipients.

It may well be that had there been any such "inexhaustible flood" the Johnson programs still would have failed. The fact is, however, that for all the Great Society rhetoric few if any of these programs ever were properly or fully funded—not least because of the cost of the unselfish mission of the American people to save our Vietnamese from the other Vietnamese.

If there is a general indictment of the Johnson programs to be made—any such judgment has to be hedged—it probably is that they were designed around the basic idea of providing services, rather than money, to the poor. Community action programs also generated bothersome political divisions when the "maximum feasible participation" of the poor became more than local political and social structures could tolerate.

But while it is true that not much success can be claimed—obviously—in eliminating poverty and racial disadvantage, these programs may well have had more cumulative importance than Mr. Nixon allows. His former urban affairs counselor, Daniel P. Moynihan, makes the case against the Great Society strategy in his new book, "The Poli-

tics of a Guaranteed Income," but adds that in the troubled years of the sixties the publicity, excitement and limited impact of these programs may well have been vital in maintaining such stability as there was. At least, they created a brief impression of concern and may even have generated some hope among the intended beneficiaries, at a time when hope was vital.

Mr. Nixon's prime substitute, revenue sharing, is at least as much a gamble—as far as net results are concerned—as anything the Johnson Administration did. Much revenue-sharing money, as was the case with Great Society grants, will go not to the poor but to middle-class workers—to firemen's and policemen's salaries, for instance. Capital projects and local tax reduction will absorb more of it.

And while Mr. Nixon is extolling local responsibility, he might consider expanding local resources. At a time when the Federal budget is under maximum strain, Representative John Anderson of Illinois, one of the most thoughtful Republican legislators, has pointed out that by the last quarter of 1971, state and local governments had a $6-billion surplus of revenues over expenditures, and that this excess was running at a $15-billion annual rate in mid-1972. By 1975, the American Enterprise Institute has estimated, this state and local surplus could be more than $23 billion.

So it may be that Mr. Nixon's revenue-sharing program will turn out to be "throwing dollars" at a surplus. Government action on a large scale—such as revenue sharing—can take so long in the American system that it is not unusual for a program to be delayed until the conditions that called for it have been considerably changed.

Finally, Mr. Nixon made much of a big increase in Social Security benefits as a major way in which his Administration was "helping to provide a better life for the American people." Aside from his Administration's opposition to the benefit increase, which was fiscally defensible, the fact is that Social Security does not derive from general revenues but from an employe tax, which must be matched by employers. This is one of the most regressive taxes that Americans have to pay, and it had to be steeply increased to finance the latest round of benefits. The wage base on which the tax is levied also was expanded.

Whether most Americans are better or worse off, as a result, is considerably less certain than Mr. Nixon would have us believe.

Mr. KENNEDY. I would also like to observe that, as chairman of the Senate Subcommittee on Health, I am well aware of the interdependence of health services and social services. I am deeply concerned, therefore, by the wholesale destruction—without adequate information or concern about those affected—of social programs which could prevent dependency and worsening of health problems.

As chairman of a Subcommittee on Services for the Senate Special Committee on Aging, I have already heard of the costly consequences of shutdowns of programs intended to prevent institutionalization. As is so often the case, an action taken in the name of economy can result in the eventual expenditure of many more public dollars than would have been the case if reasonable evaluation of the threatened program had taken place.

For these reasons, Mr. President, I commend the New York Times and other newspapers which are reporting on the direct and indirect costs of eliminating services without due consideration of the consequences.

I also pledge—through the two subcommittees I have mentioned and through other channels—to do all in my power to make certain that the value of programs will be determined in ways far more objective than the President seems capable of using.

UNITED STATES MUST RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the crime of genocide is one that has plagued mankind since the earliest historical times. Mankind has consistently turned upon his fellow man and attempted to destroy his institutions, his customs, and often even to end his life. History is filled with examples of such actions, among them being the butchery by the Assyrian armies, the utter destruction of Carthaginian people by the Romans, the pillaging of the hordes of Attila and of Ghenghis Khan, and so on up to what can be termed the modern period.

During the last two centuries it appeared that mankind had at last become "civilized" and such horrible butcheries occurred with less frequency. Even the waging of war was governed by a certain set of codes and international laws.

Then, in this century, when a man felt he could at last turn to his neighbor and assure him that never again could such brutal savagery exist, genocide reared its head on a scale of brutality never before equalled in the annals of history. The inhuman, efficient attempt of Hitler's Germany to completely eradicate the Jews occurred just in the last 30 years. The existence of the concentration camps is terrifying proof that genocide can again be practiced by a people who think themselves to be civilized. It became clear that the world must act to prevent any future action comparable to the unthinkable crime of the Nazi regime against the Jewish race.

It is to the credit of humanity that action was swiftly taken by the United Nations soon after the horror of 6 million Jews having been murdered was revealed. The Human Rights Convention on Genocide was ratified by the United Nations before the decade of the forties was out, and since that time many nations have manifested their beliefs by ratifying the convention.

The United States was among those nations that bewailed the actions of the Nazis and was one of the powers that conducted the postwar trials at Nuremburg. Yet the U.S. Senate has not ratified this Convention which seeks to outlaw any such future occurrence. There is no excuse for any further delay on the part of the United States on such a crucial matter. Now is the time for the Senate to ratify the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

BASQUE STATEMENT

Mr. McCLURE. Mr. President, I would like to request that at the end of my remarks the following two articles be included in the RECORD. The first is a short excerpt from a National Geographic article of June 1966 and the second an article by Jonathan Randal of the Washington Post.

Both items deal with part of our population which has gone unnoticed for too long in this country. Although the number of Basques in the United States is small compared with those from other parts of the world, the Basques are a unique and individual people whose strength and courage have won the admiration of all who know and work with them.

For years the great western herds of sheep were cared for by Basque who endured hardships which would have turned back less determined people. The Basque population of our Western States has since spread into many professions and businesses, but their essential strength and color continue to make them among our most respected citizens.

After a people has dared so much and worked so hard it is little wonder that they have a strong sense of solidarity. It is little wonder that when they look at their brothers in Europe and see them being used as political pawns between two nations they are angry. And they are afraid for their people. Governments which practice repression against small groups without political power invite violence. The Basque population of my State has asked me to express its concern, which I personally share, and its hope that European powers will allow their foreign brothers to live in peace. Unless they do there may not be an end to the violence which can only end up hurting the oppressed minority.

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

BASQUES

My father is a Basque, his homeland the Pyrenees mountainland shared by France and Spain. He came to America sixty years ago, at the age of 16, to herd sheep in the lonely mountains and deserts of the Far West. The chronicle of his life is that of thousands of other Basque sheepherders who, for more than a century, have been coming to America to make their lives in that same harsh setting.

Their role in our history has gone nearly unrecorded. Yet, without their incredible capacity to endure hardship and solitude, the great era of western sheep raising would not have been what it was.

Descendants of an ancient race whose origins and language still remain a mystery, the Basque sheepherders of America were urged here by the same restless spirit that lured their forebears around the world as sailors with Magellan and to South America as soldiers with the conquistadors.

Basque sheepherders still come to the West, though the total number of herders in the United States is declining. The old method of raising sheep on the open range is giving way to the trend toward small farm flocks.

This trend and the diminishing of the western range in the face of population needs have spelled the decline of the range-sheep industry. In Nevada for example, there are some thirty range-sheep outfits operating today. There were twice that number in the years immediately preceding World War II. In another generation, the lone sheepherder and his wandering band may well become a thing of the past.

Though no accurate count has been made, an estimated 60,000 Basques live in the western United States today. This number in-

cludes both the Basques who emigrated to America and their descendants.

As they became successful, the Basque pioneers sent for their sweethearts, who had stayed behind in the Basque country. Many also sent for brothers and sisters, nephews and nieces. The men worked with the livestock and the women with the myraid chores of housekeeping and cooking, gardening, and conserving that a ranch demands. And so started the Basque colonies of the West, and the generation of American-born Basques that was to follow.

As for Basques who did not become sheep owners or foremen, but remained herders all their lives, very few married. It was one thing to be an owner who could make a ranch his home base, another to be a herder whose only home was a lonely sheep camp.

Many of the older Basques are still in the sheep business—either as owners or as herders—but their children have gone mostly into city occupations or professions.

FORTUNES FALL WITH SHEEP PRICES

"The big movement of the Basques came after the century had turned," my father said. "Thousands like myself came between then and the 1930's. We all came the same way, without much more than the clothes on our backs. But we were young and strong, and willing to work and suffer for a chance in life we couldn't have had in the old country.

"Though we talked about going home—and some did go—underneath, most of us realized the opportunity was here. It was a raw new land, and we were helping to build it. There wasn't anything a man couldn't do in this western country with work and luck.

"We all started the same way, taking our wages in sheep instead of cash. We would run our sheep with the owner's, until we were big enough to break away on our own."

This had been the big time of sheep in the West—when the Basques who had come as sheepherders twenty years before suddenly found themselves rich men. They kept town houses, dressed in the best suits money could buy, and drove expensive cars. I could remember the legend that if it weren't for the Basques, the Caddilac agency in Reno would have gone broke.

Then, without warning, came the livestock crash of the 1920's. The market dropped out from under the stockmen, and sheep were worth next to nothing. In an instant, most of the Basques lost everything for which they had endured so many hardships—their sheep, ranches, land, and all the elaborate dressings of town houses, cars, and jewels. It happened to my father, too.

But it was not in their nature to give up in despair. They had begun with nothing, and the memory of it was not that far away. Without shame, they went back to the mountains and deserts, roaming from one outfit to another, taking whatever work there was.

Many of the hardy Basque women followed their husbands through this wandering time, working as ranch cooks. Others stayed behind in the towns, finding jobs in the Basque hotels and restaurants until they could be together again with their husbands. And though many of the Basque men never regained their former heights, they saw the day when they had their own outfits again.

[From the Washington Post, Nov. 16, 1972]

FRENCH POLICY ON BASQUES STIRS DEBATE

(By Jonathan C. Randal)

PARIS.—Either by design or error the French government is deeply involved in actions against Basque political refugees who have fled north across the Pyrenees to escape reprisals from Fanco's Spain.

In what even normally pro-government French newspapers have denounced as hamhanded tactics, political refugees have been forced to move away from the French Basque country for unexplained reasons.

The French government also has been accused of allowing Spanish police to operate on French territory. In one case reported by the French press, armed Spanish police shot a fleeing Spanish Basque, then entered French territory. French customs officers testified that later the same day a Spanish policeman stopped a car carrying Basque refugees inside France.

French and Spanish Basques have staged protest hunger strikes in churches in the French Basque country and in Notre Dame in Paris and the police have used tear gas and strongarm methods to dislodge them.

In the process observers both in the Basque country and Paris fear that the government has re-awakened the long slumbering Basque autonomist movement in France where only 150,000 Basques live.

In the Basque country itself there is considable disagreement with the government's actions which have never been explained in public. It is supposed that the administrative decision in October to send seven Spanish Basques elsewhere in France was motivated by an explosion which destroyed part of the wall of the local government offices in Bayonne.

Until this year the French Basques were largely unconcerned by the terrorist activities of the militant Spanish Basque organization ETA (standing for "Basque country and freedom"). ETA has become the most effective opposition to the Franco government and demands independence for Spain's 2.2 million Basques.

Leftwing French political parties have charged that Interior Minister Raymond Marcellin's recent crackdown on Basque refugees was part of a plot between the Franco regime and France.

They argue that for years the Gaullists have sought to protect their growing economic interests in Spain by cracking down on Spanish political refugees in France, many of whom came here when the Republicans lost the Spanish civil war in 1939.

They point to large French automobile interest in Spain, the manufacturer of French AMX-30 tanks there, the sale of Mirage jet fighters and cooperation on civil aircraft production and joint maneuvers by the French and Spanish armed forces. They also note that France constantly has backed Common Market membership for Spain and that there is a purported high level of cooperation between the French and Spanish police.

Faced with these charges, which to varying degrees have been echoed by more middle-of-the-road French politicians, Marcellin again yesterday went out of his way to deny any such collusion with Spain.

"The minister recalled," an official statement said, "that there is no understanding whatsoever with the Spanish government concerning refugees and that '1,300' Spanish Basques here can always count on the liberalism of the French government."

It added that the French government "scrupulously applies the Geneva convention" protecting political refugees. But it said that "Spanish refugees must not participate in any demonstrations troubling public order and French territory must not serve as a jumping off place for actions on the other side of the border."

However, Marcellin's critics noted that under his directions an increasing number of political refugees—not all of them Basques—have been expelled or assigned to forced residence in out-of-the-way parts of the country.

AN ASBESTOS TOWN STRUGGLES WITH A KILLER

Mr. TAFT. Mr. President, the March 1973 issue of Saturday Review of the Society contains a story by Bruce Porter entitled "An Asbestos Town Struggles With A Killer." It highlights the tragedy which workers and communities face with regard to occupational respiratory diseases and describes the plight of the people of Manville, N.J., who have a high incidence of asbestos and mesothelioma.

On February 27, I introduced S. 1029, the "Respiratory Disease Benefits Act." This measure is designed to extend to thousands of working men and women the same benefits which we now provide for coal miners under the Black Lung Benefits Act of 1972.

Because Mr. Porter's article illustrates the serious consequences of such respiratory diseases, I ask unanimous consent that it be inserted at this point in the RECORD.

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

AN ASBESTOS TOWN STRUGGLES WITH A KILLER

(By Bruce Porter)

As company towns go, Manville, New Jersey (population: 15,000), has much to be thankful for. Besides deriving its livelihood from the 2,225 jobs provided by the Johns-Manville Company—the nation's largest manufacturer of asbestos products—the town enjoys a number of fringe benefits. In the late 1950s Johns-Manville donated $100,000 for a high school building. Over the past three years it has given another $100,000 to Somerset Hospital in nearby Somerville. The company has also picked up the bill for a large part of Manville's $125,000 worth of ambulance and rescue vehicles, and it has donated some $250,000 worth of pipe for the town's new sewage system. Town garbage is dumped at the company's refuse site, a service worth another $100,000 a year. On a smaller scale the company is an easy touch for everything from building materials for the new Veterans of Foreign Wars hall to the $10,000 needed for beer and hot dogs at the annual volunteer firemen's picnic.

But now, it turns out, Manville citizens have been paying a high price for such largess. The incidence of lung cancer among Johns-Manville employees is four times the national norm. Mesothelioma—a form of chest or abdominal cancer that accounts for only one out of every 10,000 deaths in the general population—has in the last eight years claimed the lives of at least fifty-eight Manville residents, most of them workers in the Johns-Manville plant. Asbestosis, or "white lung"—a severe scarring of the lungs caused by inhaling asbestos fibers over the course of many years—is another disease that plagues the company town. Beginning as a mere shortness of breath, asbestosis develops into a near paralysis that makes breathing and bodily movement increasingly difficult. In the end the victim's lungs function so marginally that, if the individual does not suffer death from respiratory illnesses such as pneumonia, he will eventually suffocate.

One Manville resident who is only too well acquainted with asbestosis is George Smith—"Smitty" to his friends—who moved to New Jersey twenty years ago from a Pennsylvania steel town. He was thirty-nine years old at the time, and he was active and healthy. "I was always off hunting or fishing," Smitty told me. "I couldn't stand not to be doing something, you know." A year ago last fall, after seventeen years of making

asbestos-lined sewer pipe in the Johns-Manville factory, Smitty came down with asbestosis. "I didn't know what the hell it was," he recalled. "It was just a little shortness of breath, you know, and I'd always been as healthy as a horse all my life. The last doctor I'd seen was when I was born. At first I thought it was just something that would pass, but then it started getting worse and worse, until one day I came to work and I could barely move. I didn't think I'd make it through the day."

Smitty is now virtually immobile. Unable to work, he sits all day in the kitchen of the J & J Delicatessen across the street from the plant.

At night Smitty hobbles back to his room above Mary's Tavern—a one-block journey that takes him nearly twenty minutes because he must stop to catch his breath every three steps. His body is thin and frail, and when he talks the words rattle out of his mouth in a series of hoarse belches. "Even if my friends would take me, I don't think I could fish anymore, because if I got a bite I couldn't do anything about it," Smitty said. "I'm finished. I can't work. I can't do anything. God help the man who ties up with anything like this."

While the effects of asbestos-related diseases are, in themselves, fearful, the prospect of the toll they may take in Manville in the near future is even more so. In the next few years, physicians who have studied the problem predict, the number of deaths resulting from asbestos-related diseases can be expected to reach near-epidemic proportions. This is so because the gestation period for asbestosis and mesothelioma ranges between twenty and forty years. Hence, workers who joined the plant in the late 1930s and 1940s are just now beginning to suffer the consequences. A study of 689 Johns-Manville employees that was released last May showed that out of seventy men and women who had worked at least twenty years in the plant's formerly very dusty textile division, some twenty-four of them, or 34 per cent, had died. This death rate is nearly triple that of a similar group in the general population.

"The next five or ten years are going to be rough in Manville," I was told by Dr. Irving J. Selikoff, director of the Environmental Sciences Laboratory at Mount Sinai Hospital in New York and the scientist who conducted the study, "because a lot of people are going to be dying, and so far no one knows what to do about it." Dr. Selikoff adds: "What is tragic is that this is a man-made disease. It is not a visitation from heaven. It was preventable. The serious situation that now exists is a record of failure on the part of us all—scientists, industry, and governmental authority. And industry is correct, in my opinion, in pointing out that what we're seeing now is a result of our mistakes in the past. Having said this, I would urge the most intense efforts to ensure that we do not continue to make these mistakes. Too many men and women have died of our blunders already."

Perhaps no other mineral is so woven into the fabric of American life as is asbestos. Impervious to heat and fibrous—it is the only mineral that can be woven into cloth—asbestos is spun into fireproof clothing and theater curtains, as well as into such household items as noncombustible drapes, rugs, pot holders, and ironing-board covers. Mixed into slurry, asbestos is sprayed onto girders and walls to provide new buildings with fireproof insulation. It is used in floor tiles, roofing felts, and in most plasterboards and wallboards. Asbestos is also an ingredient of plaster and stucco and of many paints and putties. This "mineral of a thousand uses"—an obsolete nickname: the present count stands at around 3,000 uses—is probably present in some form or other in every home, school, office building, and factory in the country. Used in brake linings and clutch facings, in mufflers and gaskets, in sealants and caulking, and extensively used in ships, asbestos is also a component of every modern vehicle, including space ships.

An estimated five million people—men and women employed in asbestos plants, insulation workers, construction workers, steamfitters, carpenters, tile setters, and the like—daily breathe in significant amounts of asbestos fibers. During World War II some 4.5 million Americans worked in the shipbuilding industry and were thus occupationally exposed to asbestos fibers. An estimated 3.25 million of these people are still alive. Medical scientists fear that the Seventies will bring the first big wave of asbestos-induced cancers among this segment of the population.

In a study published last March in the *Journal of the National Cancer Institute*, Dr. Merle F. Stanton, a scientist at the National Institutes of Health, ranked asbestos second only to cigarette smoke among the known causes of cancer. Dr. Stanton's study points up the fact that asbestos fibers pose a threat to the health of the general public. It is a threat that most cities and towns and federal agencies, like most asbestos-products manufacturers, have been slow to recognize and slow to respond to. For years the sight of flurries of asbestos fibers floating down from construction sites was commonplace in American cities and towns. It was not until February of last year that New York City banned, outright, the use of asbestos in sprays used to fireproof buildings. And New York was a leader in this field. (Last December the Environmental Protection Agency—following the example set by New York, Boston, Philadlephia, and the state of Illinois—took the first legal steps toward banning construction site spraying and "the visible emission of asbestos particulate matter" during repair and demolition of buildings throughout the nation.) How many New Yorkers were breathing the stuff in? Two years ago Dr. Selikoff and his associates at Mount Sinai studied lung tissues from 3,000 consecutive autopsies performed at three different New York hospitals; they found traces of asbestos in 48.3 per cent of them. The air in New York may not be typical of that in other cities, but the statistics stand as a warning.

The fibers to which the general public may be exposed do not come only in visible blizzards or invisible swirls in big cities. Each time a car mechanic airhoses out a brake housing, he spreads asbestos fibers through his garage. Each time a do-it-yourself or professional carpenter saws up wallboard or plaster-board containing asbestos, he releases fibers into the air. So ubiquitous is asbestos that one tends to forget it is there at all. Last fall the New York City Department of Air Resources tested several brands of powdery papier-mâché mix widely used in elementary school, and found that some samples contained 50 per cent or more asbestos.

The United States is the world's foremost consumer of asbestos. In the span of years from 1965 to 1969 American manufacturers purchased almost one-third of the world's output of asbestos—an average of 800,000 tons per year. Johns-Manville is the giant of America's booming, $1-billion asbestos manufacturing business. According to Matt Swetonic, secretary of the Asbestos Information Association, an industry-funded data distribution center with headquarters in New York City, Johns-Manville manufactures between 35 and 40 per cent of the nation's asbestos fiber. In 1971 the $700-million corporation netted $42.7 million; last year it netted $55 million. Of the country's 400 asbestos-products plants, which employ a total of 31,000 men and women, Johns-Manville owns fifty-five, the largest of its plants being the one in Manville, New Jersey. (In 1912 Henry W. Johns, Jr. and Thomas F. Manville established their first asbestos-products plant in what was then called the township of Hillsborough. Soon the plant was receiving so much freight addressed to Johns-Manville that railroad men nicknamed the place Manville. In 1929 this name was formally adopted by the company town.)

Located some forty miles southwest of New York, Manville is a plain, predominantly Polish-American town built out on either side of a long main street punctuated by a single traffic light. Most of the houses that line the side streets are post–World War II bungalows and Cape Codders, each with its small front lawn and backyard. The tall factory stack and the sprawling complex of dingy old and spanking new buildings of the Johns-Manville plant dominate the scene.

I went to Manville, not because the asbestos plant there was Johns-Manville's biggest and longest established, but because the town's working population had been studied more closely than that of any other asbestos company town. I went also because I had read about the conditions that had long prevailed at the Manville plant, and which had been shown to be the cause of the local plague, and because I had heard of new policies that promised great, if late, improvement in those conditions. I saw Manville, New Jersey as a laboratory in which to study the phenomenon of a group of businessmen and industrial workers trying to cope with the painful discovery that their long-cherished means of livelihood has a lethal side to it. It is a phenomenon that, I suspect, has occurred, and will repeatedly occur, in the course of this century in which industrial progress always seems to outstrip man's knowledge of the full human consequences of such progress. For, once on the make, industry is usually too preoccupied to pause, look back, and help out.

Evidence that asbestos fibers cause lung damage was on hand even before Johns and Manville started up operations in New Jersey. But, as Paul Brodeur observed in "The Magic Mineral," an article published in *The New Yorker* in 1968, "coyness on the part of industry, timidity on the part of labor, and obtuseness on the part of the medical profession often combined to make early investigations into the health of asbestos workers meaningless."

Then, in 1928 and 1929, the chief medical inspector of the British Home Office's factory department examined 363 asbestos-textile workers and found that more than 25 per cent of them showed evidence of suffering from asbestosis. In 1931, on the basis of the inspector's findings, Parliament made the disease compensable and, among other measures, instituted periodical checkups for workers engaged in particularly hazardous processes in the industry. Next, in 1955, Dr. Richard S. Doll, director of the Statistical Research Unit of the British Medical Research Council, completed a study of 113 consecutive autopsies of men who had been occupationally exposed to asbestos for more than twenty years. Doll's study showed that the extent to which they had risked lung cancer over the whole period was eleven times as great as that of men in the general population of England and Wales. Brodeur observes in his pioneering article on this subject: "From then on, many doctors were convinced that a causal relationship between asbestos exposure and lung cancer had been demonstrated, although almost no part of the vast asbestos industry either acknowledged the relationship or found it advisable to aid the independent researchers who were investigating it."

The health hazard posed by asbestos came home to Manville in 1963, when Dr. Maxwell Borow, a local physician, found that seventeen townsmen had died of mesothelioma within the span of three years. Four years later Borow asked Johns-Manville for

$3,000 to finance a display to educate both workers and the medical profession at large on asbesto-related diseases; his request was turned down. Borow subsequently approached the worker's union. Local 800 of the United Papermakers and Paperworkers; the union organized the collection of the needed money.

Why had Johns-Manville declined to help out? "It was our opinion," Jack Solon, the corporation's vice-president in charge of environmental affairs, explained to me, "that in 1967 there was a need to learn more about mesothelioma before a relationship with asbestos could be affirmed or denied." Besides, Solon added, since 1950 the company had already spent some $2 to $3 million on new dust-control equipment and, as a result, considered the Manville plant a safe place to work in. Men and women who worked at the plant in the Fifties and Sixties, however, failed to notice that the new equipment made any appreciable difference. "There were times when the air was so thick with asbestos dust in some places that you couldn't even see," I was told by a textile division worker who has been with the company for thirty-two years. "Sometimes it was even impossible to breathe with a respirator because the filters would get so clogged with asbestos." (Respirators are generally unpopular among asbestos workers. The wearer sweats and his eyes smart. For workers, who have cardiac or pulmonary problems, breathing through an ordinary respirator adds to the strain on their lungs and heart. Air-cooled respirators that supply air to the wearer are bulky and costly.)

Even outside the factory the air was frequently full of the potentially deadly fibers. In the Lost Valley section of town—an area downwind from the factory—the fiber fallout would get so thick that homeowners had to hose the stuff off their houses. Directly in front of the plant conditions were even worse. "When I'd direct traffic there," Sgt. George Kalman of the Manville police recalled, "there were days when it was like we were having snow flurries in July. I'd take off my hat, and it would be covered with this white dust."

Meanwhile, examinations by company doctors were carried out only once every two years—a schedule that was increased to once a year in 1972. Such infrequent checkups may have been sufficient to monitor a slowly developing case of asbestosis, but they were less useful as a means of catching a victim of a swiftly developing cancer, particularly mesothelioma, a disease that normally proves fatal six months to a year after the cancer shows up in X-ray pictures. (To jump from past decades to an illustration from the recent past: in December 1971 Danny Maciborski, a forty-nine-year old ex-marine who had worked for Johns-Manville for thirty years, checked in at the company dispensary for his biennial physical and was given a clean bill of health. A few weeks later, however, he felt a strange sensation in his abdomen—as if his stomach were "getting bigger," as he put it—and went to see a private physician, who in turn sent him to Dr. Borow. Borow's tests showed that Maciborski had a malignant tumor of the membrane that lines the abdominal cavity—in other words, mesothelioma. "I knew what it was because everybody at the plant knows about asbestosis and mesothelioma now." Maciborski told a reporter for the *New York Post*. " I wasn't surprised or shocked about it . . . I just asked [Dr. Borow], 'How long have I got?' " Maciborski died last September. He lasted as long as he did because he was willing to go to the doctor every two weeks to have up to eight quarts of fluid pumped out of his abdomen. Johns-Manville paid Maciborski's medical expenses, and, as provided by New Jersey state compensation laws, it is paying his widow $76 a week—a sum that will drop to $72 this June, when her eldest son will turn eighteen.)

Why, throughout the Fifties and Sixties, did men and women continue to work in the plant if conditions were so hazardous? The answer would seem to have as much to do with psychology as with economics. "It's funny," says Chester Raczkowski, a forty-one-year-old machinist and union shop steward at the plant, "but the only people who seem scared of this stuff come from outside the community." To Raczkowski, who has worked at the plant since he was eighteen, his job is a way of life that he is not about to give up just because of a few "scare stories" in the press. "You and I can work in a place for thirty-five years, and maybe you get cancer or something and I don't—who's to say? Dr. Borow says he's an expert on this mesothelioma or whatever its' called. How do I know? Maybe I'm fatalistic, but I'm a Catholic, and I figure you die when it's time to die." One thing Raczkowski does know is that he would find it difficult to leave his job at the Johns-Manville plant, As a first-class machinist, he earns $4.25 an hour, has a five-week vacation, and is entitled to a generous hospitalization program. "Where else could I get all these benefits?" Raczkowski asks.

Raczkowski's attitude—fatalism mixed with a sense of being pretty well off where he is—is one shared by the town's officials, most of whom work at the plant, too. Manville's mayor is a factory supervisor. A majority of the members of the local board of health, whose duties including seeing to it that the town's air is fit to breathe, are also employed by Johns-Manville. Last spring, when the town belatedly decided to ascertain whether asbestos fibers were still sifting down on Manville, it seemed only natural that the board should ask the company to do the monitoring. The air was found clean.

Indeed, by 1972 Johns-Manville *had* taken a series of steps to clean up its factory, thereby improving the quality of the town's air. Much of the impetus for improvement came in the form of a 158-day strike in the winter of 1969-70. The main issues involved in the strike included such conventional items as overtime pay and job security, but it wasn't until the union brought the issue of health into the talks that it found real clout. "It was then," I was told by William Ruff, former plant manager at Manville and now the factory's director of community and employee relations, "that they started getting a lot of sympathy in the press." Finally, the company agreed to admit union representatives to the plant's environmental committee, thus allowing them to examine fiber counts made in the factory, and to let workers see their own company-kept health records.

Two powerful nudges, felt by the entire industry, came later in 1970 and in 1971. In December 1970 Congress passed the Occupational Safety and Health Act, which established the National Institute for Occupational Safety and Health (NIOSH), a body charged with conducting environmental and medical research necessary to develop safe industrial standards, and empowered the Labor Department's Occupational Safety and Health Administration (OSHA) to promulgate and enforce these standards. Shortly after the act became effective, in April 1971, Local 800 in Manville filed a complaint which brought inspectors in. Violations were found and citations issued.

Then, in November 1971, under the provisions of the newly effective act, the industrial union department of the AFL-CIO requested then-Secretary of Labor James Hodgson to promulgate emergency standards for asbestos dust and lower the acceptable fiber count from five so-called long fiber per cubic centimeter of air to two. (A long fiber is one greater than five microns in length.) The AFL-CIO request claimed that five million American workers were being exposed to increasingly dense concentrations of airborne asbestos fibers and that the situation called for prompt action. Hodgson took his time. Early in 1972 he appointed an Advisory Committee on Asbestos Dust and hired Arthur D. Little, Inc., a consulting firm with a liberal reputation, to provide advice on the economic feasibility of lowering the fiber count. (Arthur D. Little, Inc., assembled a brain-trust consisting of thirteen executives from the shipbuilding industry, twelve executives from the asbestos industry, and eleven doctors, most of whom had previously served as consultants to the asbestos industry.)

Meanwhile NIOSH put together a special advisory group of medical researchers to look into the fiber-count problem. Both the Hodgson-appointed Advisory Committee on Asbestos Dust and the NIOSH panel recommended lowering the count to two fibers. The Arthur D. Little panel, on the other hand, concluded that the five-fiber count was safe and that bringing the count down would be prohibitively expensive for all industrialists concerned. Then, in June, four days were set aside for public hearings at the Labor Department's offices in Washington, D.C.

Predictably, Dr. Selikoff argued for the lowest possible count. (So, too, in the last few months of his life, did Danny Maciborski, whose appearance at the hearings one Johns-Manville official I talked to referred to as having been "in bad taste.") Dr. Selikoff pointed out that, while researchers know that a worker must be exposed to large doses of asbestos dust before he contracts asbestosis, they also know that considerably less exposure can cause mesothelioma. (As far back as the early 1960s medical researchers in such far-flung parts of the world as Johannesburg, London, and Pittsburgh were coming up with reports on large numbers of mesothelioma victims who had had no direct occupational exposure to asbestos: wives of asbestos workers who had inhaled fibers when shaking out their husband's work clothes, people who had simply lived within half a mile of an asbestos factory, fourteen-year-old boy whose only contact with the fibers occurred when he helped his father saw and install plasterboard.) Lowering the fiber count would reduce the incidence of asbestosis then, but it would not necessarily solve the problem of asbestos-related cancers. On this point, Selikoff was able to cite evidence from his just completed study of the 689 Manville workers. It demonstrated that, under usual factory conditions, as the incidence of asbestosis declines the incidence of cancer rises. In his survey of workers in the formerly high-fiber-count textile division, for instance, Selikoff found that 39 per cent of the workers' deaths resulted from asbestosis, 24 per cent from various types of cancer, whereas in areas where the fibercount was comparatively low (though not as low as counts recently achieved at the Manville plant), such as the company's research laboratory or its maintenance shop, cancer accounted for 40 per cent of the workers' deaths, asbestosis for approximately 5 per cent. ("What was happening," I was told by Dr. William J. Nicholson, an associate of Selikoff's at Mount Sinai, "was that, without asbestosis, these people lived longer, which gave them time to die from cancer, also caused by asbestos.")

A second point made by Selikoff was that the monitoring technques used to ascertain the fiber count set by the Department of Labor record only long fibers, although shorter fibers are equally capable of causing cancer. Moreover, in a cubic-centimeter sample of air containing the admissible count of five long fibers there may be ten to 100 times as many short fibers. And it is these uncounted ones that remain in the air the longest. (In a recent conversation I asked Dr. Selikoff

what these figures meant in terms of the numbers of fibers an asbestos worker can be asked to breathe in the course of an eight-hour work day. Each of us respires approximately one million cubic centimeters of air in an hour, he explained. Thus, in eight hours men and women assigned to sections of an asbestos plant where the five-fiber count obtains respire some forty million fibers. If these so-called short fibers are taken into account, the number of fibers respired daily rises to around four billion.)

While Dr. Selikoff and other medical researchers stressed health factors at the Labor Department hearing, asbestos industry spokesmen emphasized economic considerations. Henry B. Moreno, Johns-Manville's senior operating vice-president, asserted that to achieve a two-fiber-count level in all of its asbestos factories would cost about $12 million in capital expenditures, plus some $5 million in additional operating expenses each year. This would mean, he said, that the company would simply have to close down the dustier operations in the Manville plant and fire 800 employees—all but killing off the economic life of the town. Nor, he argued, would the effects of a two-fiber standard stop there. Other asbestos companies would be forced to lay off workers; they would have to begin buying asbestos materials from abroad. "It is obvious," said Moreno, "that the overall effect of lowering the present [standard] to two fibers per cc. would have a very substantial effect on our nation's economy."

In July Hodgson—rebuffing both his Advisory Committee on Asbestos Dust and the NIOSH panel—agreed to allow the exposure standard to remain at five fibers for four more years; only in 1976 would the standard be lowered to the safer-sounding count of two fibers. Johns-Manville welcomed Hodgson's decision. "The new occupational health standard for asbestos issued today," declared a company notice to stockholders, which came out the same day as the Labor Secretary's decision, "will have no tangible effect on sales and earnings of Johns-Manville Corporation." The release went on to say that between now and the department's 1976 deadline company officials would have to study the "economics and overall profitability" of the Manville operation before deciding whether it would meet the reduced exposure standards or close down much of the plant. (Apropos of Johns-Manville's priorities, it might be noted that, while the company expressed qualms about spending more money to make its factories safer places to work in, it recently spent $25.9 million to transfer its corporate headquarters from New York City to a pristine setting twelve miles outside Denver.)

Dr. Selikoff took a different view of Hodgson's four-more-years decision. Estimating that some 100,000 men and women will enter asbestos-related industries before the fiber count is lowered in 1976, he predicted that 20,000 of them might be expected to die of lung cancer, 7,000 of mesothelioma, and another 7,000 of other cancers and asbestosis—a high rate of death from these diseases that could, and should, have been lowered.

1972 proved to be a paradoxical year in Johns-Manville history. In Washington, as we have seen, one company spokesman after the other had predicted dire financial results not just for the industry but for the entire economy if the fiber count were lowered. Back in Manville, however, company engineers were bringing the count way down without causing a dip in the dividends. At the hearings, Sheldon Samuels, director of health and environmental affairs for the AFL–CIO's industrial union departments, had told spokesmen for the industry this could be done; the spokesmen had insisted it couldn't. Fiber-count statistics provided by Samuels are revealing in a number of ways. Not only do they make dramatically clear how vastly the situation at Manville improved in 1972; they aso indicate that controls were slack well into the supposedly safe Sixties.

With 91 per cent of the plant now operating within the standard set for 1976, things are looking up at Manville. Even such critical observers as Dr. Borow and Dr. Selikoff say that they are impressed by the changes made. Still, these tardy improvements are small comfort to people like Smitty, who "can't do anything." Nor shall they benefit those Manville citizens who in the next few years will suffer from having worked at or lived near the plant when conditions were far more hazardous than they are today.

THE DISAPPEARING CRISIS

Mr. MUSKIE. Mr. President, this morning's lead editorial in the New York Times commented that:

President Nixon's series of messages on the State of the Union is turning into a prolonged flight of fantasy.

I can add little to that judgment, and I ask unanimous consent that this editorial, "The Disappearing Crisis" appear in the RECORD at this point.

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

THE DISAPPEARING CRISIS

President Nixon's series of messages on the State of the Union is turning into a prolonged flight of fantasy. Having proclaimed in a previous installment that environmental problems are well in hand, Mr. Nixon announced on Sunday that his Administration has caused the urban crisis to disappear.

"The hour of crisis has passed. The Ship of State is back on an even keel, and we can put behind us the fear of capsizing," the President asserted.

There are two unfounded assumptions underlying this cheery remark. The first is that because riots are not burning up the centers of cities, those cities are in good shape. The second is that this Administration never recognized, understood, or responded to the urban crisis.

This Administration has primarily focused on two aspects of the urban problem. One is crime and the other is transportation. With regard to crime, the Administration has made little headway. Violent crimes increased 30 per cent in the last four years. The most that the White House can claim is that crime is not increasing as rapidly now as in the late sixties.

On transportation, the Administration under prodding of former Secretary of Transportation Volpe gradually came to support the opening of the Highway Trust Fund for mass transit expenditures and to take a sympathetic posture toward urban transportation problems. In his address, the President reaffirmed his support for opening up the highway fund, for which we commend him.

But when one acknowledges that crime is worsening at a somewhat slower rate and that mass transit needs have been recognized if still far from being met, one has exhausted Mr. Nixon's meager list of urban accomplishments. The other staggering problems remain: the physical decline of many older business areas; the abandonment of housing in decaying residential neighborhoods; the persistence of huge slums where unemployment, broken families, crime, drug addition, and other miseries prevail and interact with one another.

A series in this newspaper recently described such a slum in the South Bronx. Mr. Nixon could visit another by traveling a few blocks up 14th Street from the White House where the ugly scars of the 1968 riots are still plainly visible. The mayors of Newark and Gary and Chicago and half a hundred other cities could show him comparable neighborhoods.

When these conditions of social pathology are so widespread, it strains credulity for Americans to be told that the urban crisis is now happily in the past. What is needed is a message which analyzes how difficult these urban problems are and honestly assesses the successes and failures of the various efforts over the last 35 years to cope with them.

No one can deny, for example, that sections of downtown Boston and New Haven or the southwestern area of Washington, D.C., are much handsomer than they were twenty years ago before renewal programs rebuilt them. But cities have had to face up to how hard it is to relocate residents and small businesses in slum districts and to provide low-cost housing where land prices and labor costs are high.

Instead of concentrating on the problems and the hard-earned wisdom which mayors, city planners, businessmen, and Federal officials have accumulated concerning those problems, the President, over and over again, blames the scarecrow of Federal interference: "No human being, accountable only to an office in Washington, can successfully plan and manage the development of communities which are often hundreds or thousands of miles away. . . . The time has come to reject the patronizing notion that Federal planners peering over the point of a pencil in Washington, can guide your lives better than you can."

It has repeatedly been pointed out that urban renewal, public housing and every other program in this field are locally initiated and, in most essentials, locally controlled. But the scarecrow continues to bob up and down in every Presidential speech. Its purpose is to distract attention from the embarrassing fact that the Administration has no urban programs or ideas of its own. Its only idea is to shove the whole responsibility back to the states and the cities—now to be known as "grassroots government"—and let them wrestle with the same old dilemmas with less Federal money.

The crisis will not have been solved. On the contrary, it will be getting worse but at least it will be out of sight in Mr. Nixon's Washington.

ROBERT S. BRAY

Mr. CANNON. Mr. President, I join with the blind and handicapped persons of this country in expressing regret that Robert S. Bray will retire after 37 years of public service. Until his retirement on December 11, Bob Bray directed the Library of Congress program providing free reading material in braille and recorded forms to more than a quarter of a million of our blind and physically impaired citizens. His has been a career characterized by recognized achievement.

When he became Chief of the Division for the Blind on May 3, 1957, there were 28 regional libraries in the United States cooperating with the Library of Congress to distribute braille and recorded books and magazines to an estimated 58,000 blind readers in the Nation. As he leaves the Library, the number of blind and handicapped readers has increased more than fivefold, to well over 300,000, and the number of cooperating libraries has increased to 51 regional libraries, with 60 local or community public libraries designated subregional libraries.

In 1957, the program operated with an annual congressional appropriation of $1,125,000. Today there is an annual budget of over $8 million. These statistics, while interesting, do not tell the whole story about Mr. Bray. His active concern and concerted effort have helped to stimulate unparalleled growth in the program at all levels—national, State, and local—and the adoption of numerous technological innovations designed to improve the quality and quantity of the specialized library materials offered.

Mr. Bray is given much of the credit for stimulating the production of more timely reading materials for blind and handicapped readers. And he has been in the forefront of those urging utilization of reading aids by the visually handicapped.

He is the recipient of the highest awards of the American Foundation for the Blind—the Migel Medal for Outstanding Service to the Blind in 1963, and that of the American Optometric Association—the Apollo Award in 1968. Also in 1968, he received the Francis Joseph Campbell Citation and Medal from the American Library Association. In 1969, he received the Library of Congress' Distinguished Service Award from the Librarian of Congress for:

His far-reaching vision and his brilliant and creative leadership of a continually evolving national program resulting in greatly improved services to the blind and physically handicapped of the nation.

In 1972, Pacific University, Forest Grove, Oreg., conferred upon him the honorary degree of doctor of humane letters in recognition of his work for the blind and physically handicapped.

He helped to form the Library Committee of the President's Committee on Employment of the Handicapped in 1960, becoming its vice chairman in 1961 and its chairman in 1964, a position he has continued to hold for the past 8 years.

Other of his awards are the Outstanding Achievement Award of the Commission on Standards and Accreditation of Services for the Blind—in 1966; a citation in 1964 from the Argosy Recording Club of the National Braille Press, Boston, Mass., for "outstanding contribution in providing recordings for the blind;" and a certificate of esteem and appreciation from the Hadley School for the Blind, Winnetka, Ill., in recognition of unswerving devotion and multiple contributions to the advancement of library service to the handicapped."

Among numerous professional appointments and positions he has held are membership on the board of trustees of the American Foundation for the Blind; member of the board of directors and of the Commission on Accreditation of the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped, and two 1-year terms as chairman of the American Library Association Round Table on Library Service to the Blind.

He will indeed be missed by those whose access to the printed word has been curtailed by their visual or physical impairments.

RECONSTRUCTION ASSISTANCE FOR NORTH VIETNAM

Mr. BAKER. Mr. President, seldom, if ever in this Nation's history have the American people been as adamantly against a major foreign policy proposal as they are to reconstruction assistance for North Vietnam; and with good reason, for this Nation toiled for 10 long years in search of an elusive goal which cost us billions of dollars and thousands of lives. But the days of U.S. involvement and heavy fighting have ended and the last American troops will soon be home.

Nevertheless, the wounds of Vietnam remain and it is no wonder that many find the thought of aiding our former enemy totally incomprehensible. After years of protracted fighting, we perhaps hoped to end our involvement in Vietnam once and for all with the stroke of a pen; but as we have so often found in the past, nothing in Indochina is that simple.

The settlement reached in Paris assures, if not a totally secure peace, at least a foundation upon which a lasting peace can be built. But the question remains, can this fragile agreement be transformed into a permanent settlement or will the Paris accords meet the same fate as those negotiated in Geneva just 20 years ago.

The international system has changed beyond recognition since then, but the need for an American peace-keeping role remains; and if we are to achieve our objective of a generation of peace, much work still remains to be done.

That work is not to provide Hanoi a unilateral hand-out nor pay what some have called reparations, for we have achieved a peace with honor which, if not vindicating our entry into Southeast Asia, certainly justifies our plan for withdrawal. But what is actually required is a degree of magnanimity that only this country is capable of. That is not to say that I advocate a unilateral effort on our part to rebuild North Vietnam, but rather a concerted approach which is multilateral and multipurposed; a program involving all the war-torn nations of Indochina, including, of course, South Vietnam. The responsibility for peace should no longer be borne by the United States alone, but by all responsible world powers.

This is, however, a matter to be considered in due course for Americans remain either in prison or unaccounted for in Indochina. Moreover, in this time of severe budgetary constraints, it would be extremely premature to consider appropriations for such a program at this time. However, unless we undertake a major effort to change the wartime atmosphere which has existed in Indochina for decades, we shall find a lasting peace as elusive as a military victory.

No one can buy peace in Vietnam, nor even sincere friendship, but we can make a long-term investment in the peaceful development of Indochina with the knowledge that problems can be discussed, if not always among the respective Vietnamese parties, then at least among their superpower allies. It is for this reason that I am inclined to support an administration proposal for reconstruction assistance to Indochina.

The precise share of that program which North Vietnam should receive should be determined at some future date. But, let the leaders in Hanoi take note, least they have forgotten our constitutional processes, that unless they adhere, not only to the spirit, but to the letter of the various ceasefire accords and continue with the release of American prisoners as provided for in the agreements, then they can look elsewhere for reconstruction assistance, for we offer this gesture in the interest of a lasting peace and not out of any sense of obligation or penance. Moreover, efforts by the communists to provide a full accounting of Americans thought to be missing in action or held captive through-out Indochina should be expedited.

It is too politically expedient for those of us in the Congress to oppose assistance to Hanoi without a second thought, especially if it appears that the North Vietnamese are intent upon making a mockery of peaceful intentions; and I can assure you that many of my constituents would prefer me to oppose anything resembling reconstruction assistance. But I share the view of the President with regard to the permanence of peace in Indochina, and I sincerely hope that the North Vietnamese will exercise the good will which they have proven themselves capable of in the negotiation of these ceasefire accords.

CIGARETTE TAR CONTENT DROPS

Mr. MOSS. Mr. President, recent figures supplied to me by Phillip Morris, Inc. and the Federal Trade Commission indicate a significant reduction in the tar and nicotine content of cigarettes over the past years. While we must continue to work for the elimination of the hazards of cigarette smoking, news of the reductions in tar and nicotine and of the increase in the number of low tar and nicotine cigarettes is significant. According to the latest Federal Trade Commission figures, 104 of the 134 varieties of cigarettes are now lower than 20 milligrams of tar. Comparing this to 20 years ago, we see that the drop in the average tar of a cigarette is almost 5 percent.

The Commission has also reported that 33 brands of cigarettes now contain less than 15 milligrams of tar. Twenty years ago this was unheard of and as recently as August 1972, there were only 29 brands of cigarettes with fewer than 15 milligrams of tar.

The information programs of the voluntary health associations and the Public Health Service as well as continued congressional pressure, have been an important stimulus in this development. The public is willing to buy less hazardous cigarettes, and the manufacturers have shown that they can produce them.

I ask unanimous consent that an article appearing in the February 11, 1973, New York Times and a recent statement I issued on this subject be printed in the RECORD at the conclusion of my remarks.

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

TAR IN CIGARETTES IS REPORTED DOWN BY 46 PERCENT SINCE 1956

(By John D. Morris)

WASHINGTON, February 10.—Smokers concerned over the health hazards may find some comfort in statistics, recently compiled for a Senate subcommittee, on the tar contend of cigarettes.

The tar yield of the average cigarette sold in the United States declined 46 per cent—from 36 milligrams in 1956 to 19.4 milligrams last year, according to data given by Philip Morris, Inc., to the Senate Commerce Subcommittee on Consumer Affairs.

The same company, which manufactures Marlboro cigarettes, also reported a "dramatic" shift to filter-tipped cigarettes from the nonfilter variety. The filter-tipped cigarettes' share of the market rose from 3.2 per cent in 1953 to an estimated 83.4 per cent last year.

Since the two studies were not correlated, it was uncertain to what extent the shift to filter tips may have affected the decline in tar content.

Other studies have indicated that nonfilter cigarettes yield about 5 milligrams more tar, on the average, than filter tips. Cigarette tar has been identified by researchers as a source of carcinogens, or cancer-inducing substances.

Results of the Philip Morris studies were sent to the subcommittee, headed by Senator Frank F. Moss, Democrat of Utah, in connection with the panel's continuing interest in smoking and health.

Senator Moss attributed the trends shown by the studies to growing public awareness of the health hazards of smoking and a resultant "challenge to the competitive energies of the tobacco industry to develop lower tar and nicotine products."

"The trend is heartening," he said in a statement. "However, until smoking is drastically reduced it will be necessary to continue to focus attention on this devastating health hazard."

MOSS TOUTS TOBACCO TAR TALLY

WASHINGTON, D.C.—The Federal Trade Commission's annual Tar and Nicotine Content Report on Cigarettes shows decreases in most brands and Utah's Senator Frank E. (Ted) Moss says he's "delighted" about it.

Moss has often battled the tobacco industry over advertising practices and the tar and nicotine contents of cigarettes.

The report that 104 of the 134 varieties are now at or below the 20 milligrams count in tar was described by Moss as "heartening."

Even more encouraging, he said, is the increasing number of "truly low tar brands."

Currently, 33 of 134 varieties are under 15 milligrams tar and one milligram nicotine. For the last comparable testing period, the figures were 29 of 142 varieties under in the tar category and 28 of 142 in nicotine.

Said Moss, "Continuing efforts to educate the public will eventually lead to reduced rates of death and disease. And as tobacco companies realize the public concern for health, more and more will develop and market low tar and nicotine brands."

FREIGHT CAR SHORTAGES

Mr. HUDDLESTON. Mr. President, on February 19, 1973, the Senate adopted, by a 60 to 15 rollcall vote, Senate Resolution 59, relating to the freight car shortage as it affects the transportation of agricultural products, especially grain.

That resolution expressed the sense of the Senate that reseal loans on farm-stored wheat and feed grains should be extended for the 1971 and 1972 crop years and that the President should appoint a committee, composed of specified parties, to study and make recommendations to insure the delivery of grains to feed deficit areas and to facilitate the loading and unloading of grains at the ports.

As chairman of the subcommittee which held hearings on the freight car shortage as it affects agriculture and which originated Senate Resolution 59, I have written to the President inquiring as to the administration's intentions with respect to Senate Resolution 59, and I would respectfully urge that the administration move toward implementing the resolution's recommendations.

In addition, the subcommittee has continued to monitor the situation, keeping in contact with the Department of Agriculture, the Interstate Commerce Commission, and the Association of American Railroads. All have taken some actions designed to help alleviate the situation. While the Department has continued to dispose of a number of commodities owned by the Commodity Credit Corporation, these are generally being sold to the storing warehousemen or released on a to-arrive basis. In a letter of February 27, Kenneth Frick, Administrator of the Agricultural Stabilization and Conservation Service, reported the status of dispositions and loading orders as follows:

1. Dispositions through February 16, 1973, are as follows: wheat—258.6 million bushels; corn—97.7 million bushels; oats—33.0 million bushels; barley—5.8 million bushels; rye—21.6 million bushels; flaxseed—12.2 million bushels; and grain sorghum 12.5 million cwt. (22.2 million bushels.)

2. Loading orders have been issued as follows:

(a) For all corn in country elevators, or about 66 million bushels of which about ½ or 33 million bushels were sold in store to the storing warehousemen. In addition more than 14 million bushels were sold on a to-arrive basis with delivery at CCC's convenience subject to the availability of cars. The balance has been offered for sale on a to-arrive basis.

(b) For all grain sorghum in country elevators or about 9 million hundredweights, of which about 2.5 million cwts. were sold in store. Of the balance, about four million cwts. have been offered for sale on a to-arrive basis and the remainder is grain sorghum which has been trucked to terminal port positions and will be used primarily for donation programs.

(c) For an aggregate of about 80 million bushels of wheat stored in country elevators. Of this amount, about 22 million bushels were sold in store, about 23 million bushels will be applied against prior commitments and about four million bushels were sold on a to-arrive basis. Of the approximate 30 million bushels outstanding, about 23 million bushels will be offered for sale on a to-arrive basis, about three million bushels will be used for donation programs and about four million bushels will be applied against prior commitments.

The Interstate Commerce Commission has issued several new service orders and others continue in effect, as described by ICC Chairman George M. Stafford in a February 23 letter:

The Commission has issued quite a few directives for the purpose of expediting movement of grain and other commodities. At the very start of our freight car troubles and when the announcement of the Russian wheat sale commenced to stimulate demands for boxcars and covered hoppers, the Commission issued Service Order No. 1112, the provisions of which require carriers to place, pull, and forward cars within twenty-four hours. This order also places a penalty on any holding of cars assigned to a specific shipper. This order had an immediate effect on the carriers' attitude in the handling of traffic and has undoubtedly contributed greatly to the promotion of better utilization of all freight equipment.

Service Order No. 1117 was issued to permit the substitution of open hopper cars, the supply of which is still quite ample, for covered hopper cars in the transportation of grain without penalizing rate-wise the user of such cars. This had an immediate effect of placing into the service of grain transportation thousands of open hopper cars that otherwise would be immobilized.

Service Order No. 1119 was issued to discourage by penalty the use of freight cars in intra-plant switching service or for storage purposes within the confines of a plant. It is felt that this order will be the means of releasing cars for transportation purposes rather than for storage use.

You are quite cognizant of our Service Orders Nos. 1120 and 1121—the former restricting the number of jumbo covered hopper cars that may be used in unit-grain-train service and the latter reducing the free-time period on boxcars and covered hopper cars held at ports. It also establishes a minimum rate to be applied per car per day after the expiration of the free time. While it is a little early to determine the impact on the car supply, I am quite certain that Service Order No. 1120 will free some jumbo hopper cars for general services and will prevent dedication of additional cars to the services of large shippers.

In addition, the Association of American Railroads has issued a number of new car relocation directives and continues to review the various port situations and issue embargoes in those cases where backups are occurring. Following is a list of the car relocation directives which have been issued since the committee hearing on this matter on January 29, as reported by W. H. Van Slyke, executive director and chairman of the car service division of the Association of American Railroads:

Car Relocation Directive (CRD) 34 issued January 30 to be effective February 5 requiring the return of mechanical refrigerators to the UP and SP empty unless loaded with commodities requiring protection from heat or cold.

CRD 35 issued January 30 to be effective February 6 requiring return of 40 foot wide door and 50 foot box cars to the BN, MILW, SP, SOU, and UP either empty or loaded to or via owner's rails or to a junction with the owner. This directive replaces one that was more permissive and was issued to meet the increase in the volume of paper, plywood, lumber and other commodities requiring wide door cars. This type car is not used for grain loading.

CRD 36 issued February 6, 1973 to be effective February 13 requires that CN and CP plain box cars be returned loaded or empty to Canada or to a junction with the owner. This directive was originated because of the great imbalance of Canadian cars in the United States compared to U.S. cars in Canada. Very few of these cars could be

utilized for grain loading anyhow due to restrictions by the Bureau of Customs.

CRD 37 issued February 15 to become effective February 22 requires the return of MILW mechanical refrigerators to protect an increase in freight requiring protection from heat and cold.

CRD 38 issued February 16 to be effective February 23 to withdraw from distribution BN, MILW, SP and UP flat cars except they may be loaded to, via, or to a junction with the owner's rails. This directive was placed as a result of heavy demands for flat cars to move farm implements and lumber.

These are all steps in the right direction and I applaud them. The situation continues, however, to demand attention and actions. During hearings before the Senate Agriculture and Forestry Committee on the general farm legislation, we continue to hear complaints about the agricultural transportation situation. In the letter from ICC Chairman Stafford noted above, he expressed "pessimism" over the existing situation:

I am quite pessimistic in my updated evaluation of the transportation situation. Shortages of plain boxcars and covered hopper cars are progressively worsening. Shippers countrywide have had to tighten their belts and wait at times to secure just a portion of their freight car needs.

The bare truth is that there are just not sufficient cars to meet current demands. Many smaller grain shippers are being pressured by their buyers to ship the grain, a request which they are finding quite difficult to comply with. I am quoting below the average daily shortages of plain boxcars and covered hoppers for the past 6 weeks, which clearly indicates the basis for my reasoning:

Week ended:	*Plain box*	*Covered hoppers*
Jan. 6	8,543	10,122
Jan. 13	10,163	12,163
Jan. 20	11,889	9,731
Jan. 27	13,654	14,350
Feb. 3	15,751	14,886
Feb. 10	16,608	15,749

Furthermore, an article in last Sunday's New York Times indicated that the port situation remains congested:

WHEAT FOR RUSSIA TIED UP ON U.S. DOCKS

HOUSTON, March 3.—The billion-dollar Russian grain deal is causing dissension on the Houston docks.

American longshoremen are avoiding when possible the dirty and hot job of loading wheat onto oil tankers pressed into service to haul American grain to Russia. Grain companies and railroads are blaming each other for a growing shortage of wheat available for the ships.

And out in the Gulf of Mexico 50 miles from Houston, 2,500 seamen sit on about 50 anchored, empty ships contemplating the early spring weather—a contemplation that is costing shipowners about $300,000 a day.

The oil tankers, bulk carriers and cargo ships wait impatiently like big water beetles for a position at one of Houston's four grain elevators to pick up their share of the 400 million bushels of hard winter wheat destined for Russian tables.

Some of the ships may have to wait 45 days before they can steam up the 50-mile long Houston ship channel to dock. The loading is that far behind.

OTHER PORTS JAMMED

About 300 million of the 400 million bushels of wheat sold by the United States to the Soviet Union is scheduled to be shipped through Houston, with the remainder going through New Orleans, Pascagoula, Miss., and Mobile, Ala. All four ports are experiencing traffic jams of ships.

Representative Harley O. Staggers, the West Virginia Democrat who is chairman of the House Interstate and Foreign Commerce Committee, wants an investigation.

There is a freight car shortage, he said, that "is the most critical in our nation's history. The average daily shortage of freight cars to move grain is three times greater than the peak in any previous year."

The railroads have said they could bring in more grain to Houston and the other ports if the grain elevator companies would unload trains faster. It takes almost five days to unload 900 box cars—enough to fill one of the big ships sitting at anchor in the Gulf. Hopper cars can be unloaded much faster.

The box cars are unloaded by huge machines that pick them up and shake them back and forth so that the wheat pours out onto a conveyor belt that carries it into the grain elevators. It takes eight minutes to unload one box car.

MANAGER HARASSED

One of the most harassed men on the Houston docks is Kenneth Roden, manager of the public grain elevator on the edge of the Port of Houston turning basin.

"I have been working seven days a week trying to straighten this out," Mr. Roden said yesterday. "I was here until 11 o'clock last night and back here this morning at seven. We have had two shifts working 13 hours each."

Mr. Roden blames diplomats for the crush.

"We should have been loading this wheat last August," he said. But they were arguing about which countries' ships were going to transport this wheat."

The wheat deal was agreed to in June and Russians made buying trips to the United States in June and July. But it was not until October that the two nations could agree that one-third of the wheat would be carried in American ships, one-third in Russian and one-third in ships of other nations.

The Russians have sent many oil tankers to transport their share, a circumstance that has irritated the American longshoremen.

Loading grain in tankers is considered to be difficult. Workers have to stand down in the hold "trimming" the grain constantly so that the ship doesn't get overloaded on one side and keel over.

"It sure is hot and dirty in there," said one of the dock's public relations men as he led a tour through a Norwegian vessel taking wheat on through long steel spouts.

"The longshoremen won't work these ships if they have a choice," said Mr. Roden. "We sent out a call for five gangs of longshoremen for today and only two gangs showed up."

Mr. Roden said that longshoremen preferred to work bulk carriers, big bargelike ships on which grain is distributed evenly by gravity. "On a bulk carrier, all they do is turn on the spouts and stand back and watch," he said.

For these reasons, I believe it would be wise for the administration to follow the Senate recommendations contained in Senate Resolution 59 and for the subcommittee of which I am chairman to monitor the situation in order to try to facilitate the movement of agricultural products to markets and to ports.

NATIONAL SOLUTIONS FOR NATIONAL PROBLEMS

Mr. MOSS. Mr. President, it has remained for Henry Steele Commanger, the noted historian, to fully assess the impact on our country of what President Nixon calls his "new federalism," and what Dr. Commanger describes as an effort to balance the budget by dismantling Federal social and humanitarian programs and turning their management over to the States and to "volunteerism" while at the same time giving more money to the military.

As he has so often done in the past at turning points in our national life, Dr. Commanger has used his skill as a historian to indicate how current proposals, if fully implemented, will appear in the future.

He stresses, in succinct and simple prose, that it is the National Government which has taken the innovative steps in the past to ameliorate or solve our nationwide problems because no State or "volunteerism" effort could do it. He points to freeing the slaves, wiping out child labor, giving women suffrage, regulating minimum wages and hours, providing social security and medicare as examples of Federal acts which have brought greater social and economic justice to this country.

The Nixon-Richardson program is, according to Dr. Commanger, "not a philosophy, it is an escape from philosophy; it is not a program, it is the fragmentation of a program."

Mr. President, I ask unanimous consent that the Commanger article, which appeared in the New York Times on March 4, and was entitled, "The Old, the Poor, and the Unemployed" be carried in the CONGRESSIONAL RECORD.

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

THE OLD, THE POOR, THE UNEMPLOYED

(By Henry Steele Commager)

AMHERST, MASS.—The object of President Nixon's "new federalism" (which is neither new nor federalism) is to balance the budget, dismantle ineffective social services, and to provide more money for the military. It is submitted to the people not in this bald fashion, however, but as a reduction in Big Government, and a return to localism and voluntarism, that is to "grass roots" democracy. The notion that voluntarism and local authorities can deal effectively with the national and global problems which crowd about us is without support in logic or history and is dangerous to the well being of the Republic.

The fact is that for a century and a half almost every major reform in our political and social system has come about through the agency of the national government and over the opposition of powerful vested interests, states and local communities.

It is the national government that freed the slaves, not the states or the people of the South, and there is no reason to suppose that these would ever have done so voluntarily. It is the national government that gave blacks the vote, guaranteed them political and civil rights, and finally—in the face of adamantine hostility from Southern states and bitter resentment from local communities, provided some measure of social equality, legal justice and political rights for those who had been fobbed off with second-class citizenship for a century. Ask the blacks if they could have "overcome" through voluntarism.

It is the national government which finally gave the suffrage to women and which, in the

past decade, has so greatly expanded the area of woman's rights. It is the national government, too, which extended the suffrage to those over eighteen. And it is the federal courts that imposed a one-man, one-vote rule on reluctant states.

It is the national government which, in the face of the savage hostility of great corporations and of many states, finally provided labor with a Bill of Rights, wiped out child labor, regulated hours and set minimum wages, and spread over workers the mantle of social justice. Ask the workingmen of America if they prefer to rely on the voluntarism of private enterprise rather than on government.

It is the national government that first launched the campaign to conserve the natural resources of the nation and that is now embarked upon a vast program to curb pollution and waste, and to save the waters and the soil for future generations—a program which Mr. Nixon's new federalism is prepared to frustrate. Ask conservationists whether they can rely on the states, or on voluntary action, to resist giant oil, timber, coal and mineral interests for the fulfillment of their fiduciary obligations to future generations.

It is the national government, not the voluntarism of the American Medical Association that finally brought about social security and medicare—just as in Britain, France, Scandinavia and Germany it was government, not private interests, that established socialized medicine. It is the national government, not states or private enterprise (which did their best to kill it) that finally provided social security for the victims of our economic system. Ask the old, the poor, the unemployed, the "perishing classes of society" whether they wish to go back to the voluntarism of private charity or the haphazard of local welfare.

It is the national government, through national courts, which has imposed "due process of law" on local police authorities, and on the almost arbitrary standards of many states. We have only to compare the administration of justice and of prisoners in local and federal jurisdictions to realize that many of the value of voluntarism and localism are sentimental rather than real.

It is the national government, not the local, which through its almost limitless resources has finally acted to ameliorate the awful inequalities on public education at all levels. And it is the national government which has, in recent years, given vigorous support to the arts, music, libraries, higher education and research in every part of the country.

Now these and many other achievements of nationalism in the arena of health, welfare, conservation, economic equality, and justice are not to be explained on some theory that those who work for the nation are more compassionate than those who work on the local level. The explanation is at once more simple and more practical; namely that as the problems we face are inescapably national, they cannot be solved by local or voluntary action. Pollution is a national problem, no one state can clean up the Mississippi River or the Great Lakes, regulate strip mining, or cleanse the air. Civil rights, medical and hospital care, drugs and mental health and crime, the urban blight, education, unemployment—these are not local but national in impact, and they will yield only to national programs of welfare and social justice. All of them are as national as defense, and all as essential to the well being of the nation, and not even Mr. Nixon or Secretary of Defense Richardson has proposed a return to the militia system, though that would be logical enough in the light of their *philosophy*.

Only the national government has the constitutional authority, the financial resources, the administrative talent and the statesmanship to deal with these problems on a national scale.

The Nixon-Richardson program is not a philosophy, it is an escape from philosophy; it is not a program, it is the fragmentation of a program.

THE INTERNATIONAL SOCIETY OF RANGE MANAGEMENT CONVENTION

Mr. CHURCH. Mr. President, on February 5, 1973, it was my pleasure to deliver the keynote address at the convention of the International Society of Range Management, held this year in Boise, Idaho.

I spoke, not from a text, but from notes. However, a tape recording of my remarks was taken and later transcribed. A copy of the transcription has been furnished me.

Inasmuch as the speech focuses on several issues of importance to the livestock industry in the Western States, as well as to the Federal agencies charged with the management of the public lands. I ask unanimous consent that the transcription of my remarks appear here in the RECORD.

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

REMARKS BY SENATOR FRANK CHURCH

I'm very pleased to be here with Mayor Amyx to welcome you to Idaho. Mayor Amyx and Phil are old friends of mine. They were talking about Texans and you will remember that Phil said he was an independent Republican sheepman. I want to tell you that there is only one thing I know rarer than a modest Texan, and that's a sheepman who's a Democrat! [Laughter and applause.]

Welcome to Idaho! It's a lovely state and it is especially appropriate that you meet here, for rangeland is of vital importance to this State. 57 per cent of Idaho's land is grazed by domestic livestock. The livestock industry is the single most important income-producing segment of Idaho's agricultural economy. We also produce, as you know, the finest potatoes in the world, to go with that delicious beef and succulent lamb at dinner time. And we're proud to be a farm state.

No one in politics representing Idaho in Congress can be unmindful of the importance of the livestock industry, or its interrelationship with the government management of our public lands. For nearly three-quarters of our State consists of public domain; about one-tenth of our total area belonging to the State government; about two-thirds of our total area belonging to the Federal government. These Federal lands, to be sure, are held in trust for all the American people. But in equity, it must be said that the people of Idaho, like the people of the other public land states throughout the American West, have a special claim upon these lands.

After all, we are most dependent upon them. We must draw much of our sustenance, much of our livelihood, from them. To these public lands we must look for the grazing of our cattle and our sheep, in large degree; for the minerals we mine—phosphate, lead, zinc, silver and gold; for the trees that feed a thriving lumber and wood product and paper industry, which in itself employs some 30,000 of our citizens; for the water we drink, the water we utilize for the irrigation of our farms and food processing plants; for the damsites at which we generate so much of our electricity. In this State, most of our electricity still comes from hydroelectric sources. And for the largest part, by far, of the hunting and the fishing and the outdoor recreation that makes for such a wholesome life in this state, and which accounts for the fastest growing new dimension of our economy—tourism.

With so many legitimate demands upon these public lands, is it any wonder that we have sought some magic formula to paper over conflicting uses? To harmonize discordant interests? To reconcile the irreconcilable? A theory was needed that seemed to serve all interests at once. A principle was required to which we could all pay homage. We found it in the concept of multiple use. Everybody gives lip service to multiple use. But like the blind men who felt different parts of the elephant, each user group tends to define multiple use in the manner most favorable to its own interests.

You know that is so. I know that is so. Human nature makes it so. That's why we so seldom allude to it, and even more rarely confess to it. Ask the private utility executive, or the executive of a public utility district—it doesn't matter—ask him what multiple use means and he will tell you that it means the right to utilize those sites on public rivers that are found suitable for the generation of electricity. Ask a farmer—he will tell you that multiple use means the right to divert water from the public rivers for purposes of irrigation. Ask a lumberjack—he will tell you that multiple use means the right to fell trees on the public land. Ask a miner—he will tell you that multiple use means the right to extract minerals wherever they are discovered on the public domain. Ask the sportsman—he will tell you that it's his right to demand unpolluted, free-flowing streams and the preservation of the habitat for wildlife in all of its various species. Ask the rancher—he will tell you that multiple use means his right to graze his animals on the grasses that grow on the public land.

Yet no one in this room capable of objectivity would contend that these uses are completely compatible; that nature offers up her resources in so perfectly balanced a manner that each of these uses can be fully enjoyed without infringement, one upon another. We all know better than that. If you don't believe it, try grazing sheep in an open pit mine, or cattle on grasslands inundated by a vast reservoir, or try raising a trout from a stream poisoned by industrial wastes.

No, these are conflicting uses, as often as not, and since the land is public land, it falls ultimately to the politicians, the elected representatives of all the people, to decide which uses shall be preferred. Now this is a thankless task, and a difficult one to handle properly. As you know, we have engaged professionals to help us with the task—the Forest Service, the Bureau of Land Management at the Federal level, and other State agencies besides.

But, in the final analysis, we cannot delegate away the responsibility—that is to say—the ultimate responsibility for policy decisions, to any agency. This belongs to the men you elect to represent you in the Congress.

Given this situation, I can readily understand the temptation on the part of men who would win and keep public office to be all things to all people, and you have seen much evidence of that. It is the temptation to endorse clearcuts when speaking to lumbermen but call for selective cuts when addressing environmentalists; the temptation to urge more grazing when talking to ranchers but more and bigger game refuges when speaking to the Wildlife Federation.

Understand, I am not adopting a holier-than-thou attitude. I am not standing here today to tell you that I have always resisted this temptation. Frankly, I don't know any man in politics who can honestly say that he has never succumbed to it. But, by the same token, those who condemn politicians most harshly for this weakness often turn out to be the very same people who insist that the men they vote for must always stand with them in their corner. They don't seem to appreciate that a man who can be hitched will stay hitched, usually, only until a bigger wagon comes along. Even if he does stay hitched, he will lack the objectivity to really serve their best long-term interests.

When it comes to the management of the public lands, there is only one standard for any politician worth his salt. Try to reconcile conflicting interests as fairly as possible. When you must choose between them, try to choose on the side that will promote the largest good.

During my years in the Senate, I have tried to adhere to that standard. Sometimes it has put me at issue with the cattlemen and the sheepmen, as when I floor-managed the passage of the Federal Wilderness Act, though 14 years later I have yet to see what injury that Act has done to grazing in the West. Or as when I authored the Wild and Scenic Rivers Bill. Sometimes it has put me on the side of the ranchers, as when in 1969 I conducted, in my Subcommittee on Public Lands, the hearings which deferred the implementation of the Udall formula for drastically increasing grazing fees.

But you have not invited me here today to recount the past. Let me tell you instead about the issues of the present—those likely to come before the current session of Congress—issues of current importance to you, and say something about how I feel concerning them.

First of all, I think it is evident now that the Udall formula for grazing fee hikes is in the process of being fully reinstated by the Executive Branch of the Government. Whatever doubts you may have had on that score should have been allayed by this year's increase, which is in the nature of putting the whole rate schedule back within that formula. The agencies insisting upon the implementation of the formula do so in the name of charging fair market value; that is to say, in the name of achieving comparability with grazing fees on private lands.

Now I have no quarrel with the public's right to receive fair market value, but I do quarrel with the agency's refusal to recognize the value of the grazing permit itself in determining fair market value. After years of study, the Public Land Law Review Commission, in its report "One Third of the Nation's Land," concluded: "We believe that an equitable allowance should be afforded to current permittees for permit values in establishing grazing fees." After weighing the testimony, both pro and con, in several days of hearings before my Subcommittee on this question in 1969, I came to agree with this position. If it were accepted by the Forest Service and the Bureau of Land Management, there would be little disparity between the cost to a livestock producer of grazing on the public domain as compared with private land. But, thus far, and clearly the indications of the direction now taken by the Administration makes this plain, the agencies are showing no disposition to accept such a method of calculation. And so I intend to introduce legislation to require that permit value be considered when setting grazing fees. And I hope that the Congress will enact such legislation in this session.

Another issue we must examine is that of predator control. It's hotter right now than a hen laying a goose egg. And I want to commend, incidentally, you sheepmen in the audience for showing your sense of humor. I have one of those bumper stickers on my car in Washington that says "Eat more lamb—10 million coyotes can't be wrong!" That's got to be a classic.

In Washington there are conflicting reports about the effect of the Executive order which banned the use of poisons on public lands. I'm told by spokesmen of the Department of the Interior and the Department of Agriculture, that in some western states the effect has been good and there are few complaints. In others, the opposite is the case. I don't know. I can't speak for all the western states. I'm not familiar with the experience in each of them, but I can tell you that here in Idaho the Woolgrowers have complained very loudly about the effects of this Executive order. They have said that the lamb kill has jumped so high that operators are being forced out of business, and that's a very serious charge, indeed.

I don't believe that the problems of predator control are insurmountable. Workable solutions *can* be found. But first of all, we must get the facts on the table. The Executive order just came out of the blue. It wasn't the result of considered debate, the arduous path through which legislation is finally written into law. It wasn't the result of extended public hearings, where experienced people could testify. It just came from on high, and it seems to me that the people whose livelihood is affected by such an order, as well as all other interested citizen groups, have a right to be heard on such a question.

And so I have asked for Congessional hearings, for public hearings by the appropriate Committees of the Congress, and I am hopeful that these hearings will soon be held. They should be open to all, to people of every persuasion. The sportsman, the environmentalist, the rancher, the rangeland managers, as well as the government agencies involved, should put their case on the public record. Government decisions which are correct can withstand free discussion; those which are proved incorrect must be changed. Let the opponents and supporters of the poison ban speak their piece and prove their point. After all, that's what free government is all about.

Will Rogers once advised: "Buy land; they ain't making any more." And I think that advice could also be extended to the managers of land, public and private. "Manage it well. They ain't making any more."

But good management takes money. You know that. It takes money for intensive replanting and reseeding, for improvements and erosion control. I must tell you today that I am appalled at the drastic cuts that are now evident in the new budget submitted by the President this week, particularly as those cuts relate to land management.

The Forest Service budget will be slashed 20 per cent. The big axe is going to fall also on the Bureau of Land Management. I wish I could tell you that I thought this was good economy. I don't. There are places where we can cut the budget. I can think of a lot of them. The war is over now. I don't see any reason why the military budget has to go up another 5 billion dollars, to a level much higher than at the peak of our involvement in Vietnam. We've put the last man on the moon. I don't see any reason why we have to increase the budget for the space program when we have so much need for applied technology right here on the ground. And I haven't the slightest idea why it is necessary, at this time, when the Federal Government has gone over 100 billion dollars into debt during the last four years, and even under the new budget will sustain a deficit of between 12 and 15 billion dollars during the coming year, we should have to increase the foreign aid program. Yes, I can think of a lot of places where we should be cutting back public spending, but the last place we should cut is the management of our natural resources upon which the future wealth of this country so deeply depends. (applause)

I wish I could say to you today that it's going to be easy to restore resource management money.

Yet the truth is I cannot tell you that. Because even if Congress restores the budget of the Forest Service and the Bureau of Land Management of last year's level, the President says he won't spend the added money. The practice of Executive impoundment has so tilted the checks and balances in our system in the President's favor that we confront a serious Constitutional crisis in Washington today. Until we find a way to cope with arbitrary executive impoundment of appropriated funds, and thus redress the Constitutional balance between the Presidency and the Congress, as intended by our Founding Fathers, it looks as if adequate management of the public domain is in for hard days. I hope, in waging this Constitutional battle, that I will have your understanding and your support, just as you will have mine when it comes to adequate funding for good management of the public lands.

"Rangeland Resources and Politics"—that was the topic you asked me to discuss this afternoon, and budgeting is the heart of it. And, therefore, this is a good place to stop. If we look after the heart of it, all other problems can be worked out. So that's the challenge I leave with you, essentially a political task which we must tackle together.

Thank you for inviting me. I hope that you have a most successful convention. [Sustained applause].

UNITED STATES-ISRAEL BI-NATIONAL FOUNDATION

Mr. MUSKIE. Mr. President, last September an agreement was signed by the United States and Israel to establish a new United States-Israel Bi-National Science Foundation. The purpose of the foundation is to give Israeli scientists approximately $4.2 million annually to support basic research, much of it of interest to the United States.

By the terms of last September's accord, the United States and Israel agreed to finance jointly the cost of establishing the foundation. The United States is to pay $30 million and Israel another $30 million, each in Israeli pounds. Israel's share is a cash donation out of budget funds, and the U.S. Government's share will consist of prepayments by Israel of Public Law 480 loans which were due in the period 1988 to 2001.

Because there has been some misunderstanding concerning the Israeli contribution to this joint enterprise, I ask unanimous consent that the following article from Near East report be printed in the RECORD at this point.

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

[From the Near East Report, Feb. 21, 1973]

FACTS ON SCIENCE FOUNDATION

Two weeks ago the Near East Report published an article by Mary Ann Riegelman on the new U.S.-Israel Binational Science Foundation, pointing out that the United States and Israel were each contributing $30 million in Israel pounds.

By coincidence, another publication, Science & Government Report, which described itself as "The Independent Bulletin of Science Policy," carried erroneous information which implied that the United States was the sole contributor. Senators J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, and George Aiken, the

Committee's ranking Republican member, then joined in a letter of complaint to Secretary of State William P. Rogers.

The Department of State's Sept. 27, 1972 release made it clear that both countries were making equal contributions. It stated:

"The United States and Israel will each provide the equivalent of $30 million in Israeli pounds for the Foundation's endowment. The U.S. contribution will consist of prepayments by Israel of Public Law 480 loans which were due in the period 1988–2001."

And on Feb. the Near East Report reported:

"Israel's $30 million is a cash donation out of budget funds. The entire $30 million—deposited on Oct. 2, 1972—will sit in the Bank of Israel; a 3.5 percent interest rate guaranteed by the Israel government will provide the Foundation's basic operating income of approximately $2.1 million per annum. The Foundation is also empowered to receive funds, property and services."

U.S.-EEC ECONOMIC RELATIONS

Mr. JAVITS. Mr. President, in reviewing United States-Western European relations over the past 2 years, I have become concerned that our broader common interest in strengthened relations may become lost as ongoing monetary and trade differences grow in intensity.

Therefore, it is with a feeling of some relief that I draw to my colleagues' attention the very fruitful recent visit of Sir Christopher Soames, the new vice president of the European Communities Commission to the United States. The comments made by Ambassador Soames during his 2-day visit which now have been published in the March 2, 1973, European Community News, in my view, puts U.S.–EEC relations in proper perspective.

Ambassador Soames' judgment is most important in that too much was being made of the differences and not enough of the "very real common interest which should hold us together." It is my hope that the warmth of the reception of Ambassador Soames, the timing of the submittal of the trade bill which the administration now has under preparation and which submittal is responsive to Western European wishes, and the administration's recent initiative in devaluing the dollar will clearly indicate to our Western European friends that the United States is approaching the year of Europe positively and with good will. It is my hope that Western Europe will respond in an equally positive fashion.

I ask unanimous consent that the report of Sir Christopher Soames' visit to the United States be inserted in the CONGRESSIONAL RECORD at this point:

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

[From European Community News, March 2, 1973]

SOAMES REPORT TO EUROPE

After a two-day visit to Washington, EC Commission Vice President Christopher Soames now begins a tour of European capitals to put together a common trading position. His trip to the United States, Soames emphasized during a Washington news conference on February 16, was a first step toward the necessary liberalization of global trade.

In his first visit to the United States as EC Commission member responsible for external trade, Soames met with President Richard M. Nixon, who, Soames said, "very kindly took me into a Cabinet meeting, and I was able to say a few more things there." The EC Commission Vice President also held individual meetings with Peter M. Flanigan, Special Assistant to President Nixon; Walter J. Stoessel, Assistant Secretary of State for European Affairs; William J. Casey, Under Secretary of State for Economc Affairs; Willis C. Armstrong, Assistant Secretary of State for Economic Affairs; Kenneth Rush, Deputy Secretary of State; William P. Rogers, Secretary of State; George P. Schultz, Secretary of Treasury; Arthur F. Burns, Chairman of the Board of Governors of the Federal Reserve System; William D. Eberle, Special Representative for Trade Negotiations; Frederick B. Dent, Secretary of Commerce, and Herbert Stein, Chairman of the Council of Economic Advisors. Soames also met informally with Congressmen and EC member states' ambassadors.

At the press conference attended by approximately 90 journalists, Soames laid principal stress on the need for the United States to pass a liberal trade bill before the scheduled multilateral talks in the General Agreement on Tariffs and Trade (GATT) open in the autumn. Asked if this meant that there could be no negotiations without a prior liberal U.S. negotiating mandate, Soames replied: "There would be considerable reluctance in Europe to starting negotiations unless there was a reasonable chance of their succeeding." The U.S. trade bill, Soames hoped, should clearly be a trade liberalization bill and not just a trade bill with some liberal elements. It should, he added, deal explicitly with tariffs, nontariff barriers, safeguards, and agriculture.

Soames said that the single most important factor facing the enlarged Community was relations with the United States. At present, he said EC-US relations "leave a great deal to be desired." He added, however, that too much was being made of the differences and not enough of the "very real common interest which should hold us together." He said he looked forward to the time when US-EC relations would be "normal."

His Washington visit, Soames said, had been given increased timeliness by "coinciding with a solution to what might have been a very serious monetary crisis—which with considerable statesmanship had been resolved." Soames said that no one knew how long the solution would stand up but he hoped it would last longer than the Smithsonian Agreement of 1971. America shared Europe's awareness of the urgent need to reform the international monetary system, and the events of recent weeks should be a "spur" to achieving this reform, Soames said.

Asked whether there would be institutional machinery for US-EC relations, Soames referred to the need for prior political growth in the Community and said of the EC: "This economic colossus cannot continue to be a political pygmy." Asked if Europe and the United States might adopt a common approach on trading vis-a-vis Japan, the EC Commission Vice President said that there would be "no ganging up" but that Europe and America have common problems with Japan which would loom large in multilateral negotiations.

Soames was accompanied on his Washington visit by Edmund Wellenstein, EC Director General for external relations, Pierre Malvé, a member of the Commission President's cabinet, and Adrian Fortescue, a member of Soames' cabinet.

THE BUDGET DEBATE: HOUSING

Mr. MUSKIE. Mr. President, the future of the Nation's housing and urban development programs is one of the most hotly debated and most critical issues in the administration's proposed budget. The confusion and uncertainty surrounding projected funding levels in the next 15 months, as well as the fate of several major programs like Model Cities, was highlighted in two divergent arguments presented by Floyd H. Hyde, HUD's Assistant Secretary for Community Development, and Mayor Roman S. Gribbs of Detroit, president of the National League of Cities, in the Washington Post of March 3.

Secretary Hyde argues that—

The President's budget proposals provide an innovative financial plan for our nation's cities and that for most programs, considerably more money is actually available for this interim period than the present annual funding levels.

Mayor Gribbs is an eloquent spokesman for the cities. While supporting the concept of community development block grants, he takes sharp issue with Secretary Hyde's argument that the proposed fiscal year 1974 budget cuts, terminations, and impoundments do not create a crisis situation for the cities.

Mr. President, I ask unanimous consent that these two articles appear in the RECORD at this point.

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

HUD OFFERS CITIES NEW URBAN PLAN

(By Floyd H. Hyde)

A newspaper headline—"HUD's Budget Cut—No Funds for Cities"—sums up the misconceptions of some person concerning President Nixon's new budget proposals.

This is unfortunate as it indicates a basic lack of understanding of how federal grant programs work and their relationship to the budget process. Let me place the current budget funding proposals in their proper perspective.

The President's fiscal 1974 budget is an innovative financial plan for our nation's cities. For the first time, local officials have a three-year, long-range plan of federal commitment to community development efforts. Of special interest to mayors and other local community officials is the $2.3 billion appropriation for Urban Community Development Revenue Sharing (UCDRS) proposed to begin July 1, 1974.

Under this new program, a wide range of physical, economic, and social community development activities will be eligible for assistance including activities now carried out under current programs. In fact, the $2.3 billion exceeds the amounts actually appropriated this fiscal year for the programs to be replaced by UCDRS.

Since we know our current funding levels, and what is proposed for fiscal year 1975, which begins on July 1, 1974, the interim period of 18 months between now and the advent of UCDRS is, of course, of valid concern. To understand this issue, one needs to examine both the funding cycles and the nature of existing funding commitments for the programs which UCDRS would replace. For most programs, considerably more money is actually available for this interim period than the present annual funding levels.

The historical pattern for Community Development programs is for the major portion of new federal grant commitments to be made in the last three months of each fiscal year. The current fiscal year funding cycle ending this June is no different. As of December 31, 1972, we had approved only 12 per cent of our urban renewal funds, and 21 per cent of the monies available for Model Cities. Thus for the six-month period

of January through June 1973, we have funds yet to approve totalling $1,274,000,000 for urban renewal, and $506.6 million for Model Cities. Based on past performance, the bulk of our remaining funds will be approved during the upcoming three-month period, April through June. Therefore most cities will enter fiscal year 1974, starting July 1, 1973, with recently approved grant programs which should provide them with funding adequate to permit activities to be carried out until UCDRS goes into effect.

In addition, the full magnitude of the amount of funds available to communities during the interim period is made even more clear when we realize that on June 30, 1973, the total *unspent* money in Community Development programs already obligated will be $7.4 billion! This means that although the federal treasury has incurred this financial obligation, such funds have not been shown as spent by the localities.

Included in the $7.4 billion as of June 30, 1973, is $807 million for the Model Cities program. This is considerably more than the annual funding level of $620 million. An even larger portion of the $7.4 billion unexpended balance is $5.7 billion in Urban Renewal. This is substantially above this year's program level of $1.4 billion.

All other Community Development programs also have substantial unspent federal obligations: Neighborhood Facilities ($123,-million), Open Space Land ($288 million), Water and Sewer Facility Grants ($391 million), Public Facility Loans ($94 million), and Rehabilitation Loans ($18 million). These amounts taken together exceed annual appropriations usually available. In the case of Neighborhood Facilities and Open Space, for example, the balances actually represent about three years of appropriated funds. These obligations are commitments which will be kept.

Thus, it is clear that we and the communities we serve will have considerable funds and plenty to do during the 16-month interim period. This is not to gloss over the problems of transition to UCDRS. In any change as far-reaching as the replacement of these categorical grant programs with UCDRS, there are bound to be squeaks and groans. In the Model Cities program for example, even though total dollars available will remain high through fiscal year 1974, the amount of new money available to the individual city for that period, as distinct from the carry-over funds, will average about 55 per cent of the former program level. This may necessitate reprogramming of activities in some communities.

On the other hand, there is a very significant offsetting feature in the President's Urban Community Development Revenue Sharing proposal. That is, that unlike the old categorical grant system wherein the applicant city often waited two or three or even as long as 10 years for federal review and approval of its application. The UCDRS grant would be an annual entitlement, and the simple application form would be processed within 90 days.

Therefore, in my opinion the potential long-term benefit of the UCDRS approach far outweighs the temporary problems of transition. This potential will be fully met only if the cities utilize the period before July 1, 1974 to get on top of the management of the existing programs and to plan and set priorities for the use of UCDRS funds. For our part, HUD is providing planning assistance funds and stands ready to work with communities to minimize local transition problems.

There is a tendency to view local problems in isolated terms. However, a concept of New Federalism calls for the inclusion of all resources—federal, state, local, and private—at the community level to meet priorities established by local officials to meet priority needs. Community Development programs funded by HUD are significant, but constitute only a small part of the entire picture.

Having served as a mayor, I can say with certainty that local officials have a full-time task in the next 16 months to develop organization structures and processes to do an adequate planning and administrative job in preparing for UCDRS. It is a big job and time is short. I am confident that progressive local officials welcome the challenge and opportunity now presented to them by this administration.

BUT BUDGET CUTS STALL CITY HOUSING

(By Roman S. Gibbs)

President Nixon has proposed that the Urban Community Development Revenue Sharing program begin in July, 1974. I believe that most U.S. mayors applaud this move toward greater local initiative and control.

However, at the same time, the President has also anounced severe cuts in federal expenditures for on-going community development programs. These cuts, if they are allowed to occur, will exact a terrible price in terms of the urgent need for decent housing and environment in our cities.

First, let me present my views regarding special revenue sharing.

Both city and federal officials have long been aware of the need to streamline the federal grant-in-aid system by creating efficient and manageable funding packages.

The first such "package" under consideration includes the various physical development programs administered by the Department of Housing and Urban Development. Those programs cover a wide range of federally funded activities, including urban renewal, neighborhood facilities, open space land, and housing rehabilitation loans.

Early in 1971, the National League of Cities and the United States Conference of Mayors helped to draft and gave their strong support to congressional legislation which would have consolidated the HUD programs into a single community development block grant. Additional impetus was given to the passage of such legislation when President Nixon recommended a similar approach called Community Development Special Revenue Sharing.

By September of last year, the Senate had passed (by a vote of 80–1) a bill establishing a block grant for community development. The House Banking and Currency Committee had reported similar legislation to the House Rules Committee. Unfortunately, that committee chose not to send the bill to the House floor for reasons that had nothing to do with the merits of the block grant proposal.

The cities remain committed to the concept of a community development block grant which is distinct from the "special revenue sharing" approach. Central to this block grant concept are several key elements which were common to both of last year's Congressional bills: (1) the provision of stable, annual funding directly to units of general purpose local government; (2) the requirement of a simplified application for funding; (3) the requirement of a minimum funding guarantee to cities with on-going programs under the categoricals to be consolidated; (4) the requirement that cities address certain broadly-stated national objectives in their locally designed community development programs.

The cities also are prepared to support the the consolidation of the Model Cities program into the block grant.

I am pleased to note that President Nixon has announced his intention again to support creation of a consolidated community development program. We welcome the President's help in getting Congress to move quickly on this important measure so that the block grant may begin on July 1, 1974.

Now let me turn to the subject of the proposed cuts in the on-going federally funded community development programs.

Regrettably, the President has created a fiscal crisis in the current programs in an attempt to force the Congress to pass the community development package quickly. This has been done by terminating or short-funding each one of the existing categorical programs which is proposed for consolidation during the fiscal year 1974 transition period.

For example, he has already frozen all new commitments for the HUD open space land and for the HUD water and sewer programs as of January 5, and he has impounded the unused money.

And on February 1, each of the 147 communities which are participating in the Model Cities program was told to absorb immediate cuts, averaging about 45 per cent of the current annual program level.

No new funds have been requested by the administration for any categorical programs, except for a token amount for urban renewal where substantial short-fundings have also been projected.

Worse still, HUD has already announced a new set of restrictions on how urban renewal funds may be used during the next 16 months—restrictions which will grind the program to a virtual halt in most cities.

The President is seeking only $138 million in new funding for these community development programs as compared to the more than $2 billion he proposed at this time last year.

In defense of its actions, the administration has attempted to argue that no new funds are needed for the six programs involved.

According to administration figures, on July 1, 1973, there will still be some $7.4 billion in congressionally appropriated and HUD obigated funds which have never been "used" by the cities. Some $5.7 billion of this impressive figure is reported to be in the urban renewal program alone.

The President advises us not to worry . . . that there are sufficient funds in the community development "pipeline" to carry us through the next months.

I submit that this is a phantom pipeline.

The weakness of the administration position on these drastic program cuts is that the major portion of the $5.7 billion which is said to be in the urban renewal program is committed to the cities for programs that are already well underway.

The only reason these funds have not yet been drawn down from the Treasury is that, as permitted by law and as administered by HUD, most urban renewal projects have been temporarily financed using local bonding authority with notes guaranteed by the federal government.

The cities would be more than willing to call in the federal funds which are obligated for those projects since the present temporary local financing procedure is more expensive to them. However, if the cities were to immediately retrieve these funds from the Treasury, it would add billions of dollars to the budget deficit for the current fiscal year. I am quite certain that the President does not desire that result.

Behind the smokescreen of these rationalizations, therefore, is the fact that the cities are faced with immediate program cuts. As every city official knows, such cuts will have a drastic effect on our citizens not only in terms of the availability of decent housing but also in the whole spectrum of urban environment.

In our most recent meetings with Congressional leaders, we mayors sought to explain how wrong it would be to allow this to happen, particularly in a program area such as community development where we are all agreed upon the major components of a new departure whose beginning may be only 16 months away.

We continue to insist that the cuts should not occur.

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.

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT

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

To the Congress of the United States:

In accordance with Section 396(1) of the Public Broadcasting Act of 1967, as amended, I hereby transmit the annual report of the Corporation for Public Broadcasting covering fiscal year 1972.

RICHARD NIXON.

THE WHITE HOUSE, *March 6, 1973.*

AMENDMENT OF RULE XXV

The PRESIDING OFFICER (Mr. BIDEN). Under the previous unanimous-consent agreement, the Senate will now proceed to the consideration of Senate Resolution 69, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 69) to amend rule XXV relative to open and closed sessions of committees.

The PRESIDING OFFICER. The time is under control. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time on the resolution be charged against both sides.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. CANNON. Mr. President, I ask unanimous consent that Mr. William M. Cochrane and Mr. Hugh Q. Alexander, staff director and chief counsel, respectively, of the Committee on Rules and Administration, be granted the privilege of the floor during the consideration of the pending business.

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

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Mr. President, may I inquire as to the time situation under the unanimous-consent agreement?

The PRESIDING OFFICER. The clerk will read the provisions of the unanimous-consent agreement.

The assistant legislative clerk read 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.

Mr. CANNON. Mr. President, what time remains on this side?

The PRESIDING OFFICER. Sixteen minutes to the side for general debate have been consumed.

Mr. CANNON. Mr. President, I thank the Chair.

Mr. President, I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 5 minutes.

Mr. CANNON. Mr. President, the Committee on Rules and Administration has reported the proposed rule change to make it possible for standing committees to hold open sessions when marking up and voting on legislation, which they are forbidden to do at present under the Reorganization Act.

Mr. President, at the time the Reorganization Act was passed, it was hailed as a great step forward insofar as the holding of open meetings of the respective committees of Congress. Many of the committees did proceed to open up their meetings insofar as possible, except as to the executive sessions for the marking up of bills or as to the provisions of the Reorganization Act related to matters involving the security of the country or where personal matters were involved before the committee.

Senate Resolution 69 would amend rule XXV of the Standing Rules of the Senate relative to open and closed sessions of standing committees of the Senate. Specifically, the resolution would amend section 7 of that rule by inserting "(a)" after the number "7," and adding at the end of the paragraph a new section (b), as follows:

(b) Meetings for the transaction of business of each standing committee of the Senate, 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 during closed sessions for marking up bills or for voting or when the committee by majority vote orders a closed session: *Provided,* That any such closed session may be open to the public if the committee by rule or by majority vote so determines.

Section 133(b) of the Legislative Reorganization Act of 1946, as amended reads in pertinent part as follows:

(b) Meetings for the transaction of business of each standing committee of the Senate * * * 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.

The problem here arose because of the interpretation of this section in the Legislative Reorganization Act, which has been interpreted by the lawyers as preventing a standing committee from deciding by majority vote or rule to conduct markup or voting sessions on an open basis.

This year two of the committees took such action to attempt to open up the markup of bills and they decided that they would have no closed sessions. However, as a result of this action, it was pointed out to the Congress and to the Members that there were grave difficulties from a legal standpoint as to whether this provision would hold up.

Senate Resolution 69 would permit any standing committee to decide by either majority vote or by adoption of a rule that it will hold open, public sessions when it marks up or votes on proposed legislation.

A letter in the nature of a report on Senate Resolution 69 from the Subcommittee on Standing Rules to the Committee on Rules and Administration, addressed to me as chairman of the committee, and a letter in support of Senate Resolution 58 addressed to me from Senator METCALF read as follows:

HON. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On February 9, 1973, the Subcommittee on Standing Rules of the Committee on Rules and Administration met to consider Senate Resolution 58, a resolution to amend rule XXV relative to open and closed sessions of Senate committees. Present were Senator Robert P. Griffin and myself, a quorum. Senator Lee Metcalf testified in support of Senate Resolution 58, and a statement was submitted on behalf of Senator Adlai E. Stevenson III, by a member of his staff.

When Senator Metcalf spoke in the Senate in support of Senate Resolution 58 on January 31 he said: "* * * the provisions of the Legislative Reorganization Act of 1970 are at least ambiguous as to the right of Senate standing committees to hold open hearings for the markup and voting upon Senate bills."

I conferred with Senator Metcalf respecting Senate Resolution 58 and suggested a modification that seems to me to meet the purposes both of clarity in the Senate rule and latitude to the committees to open or close meetings as called for by differing circumstances. Senator Griffin, a member of the subcommittee, concurred with me and our proposed resolution meets with Senator Metcalf's approval.

The amendment to rule XXV our subcommittee proposes would permit each standing committee by either majority vote or by rule to open markup or voting sessions.

The subcommittee has acted quickly and has ordered my resolution reported to the full committee so as to avoid delay in con-

sideration of bills reported by committees under procedures which may be at variance with the existing rules of the Senate. At present the possibility exists that a point of order might be made that a committee in reporting a bill had failed to follow the procedure required by the rules.

ROBERT C. BYRD,
Chairman, Subcommittee on Standing Rules of the Senate.

The letter from the Senator from Montana (Mr. METCALF) reads as follows:

Chairman, Senate Committee on Rules and Administration, Washington, D.C.

DEAR MR. CHAIRMAN: Yesterday all the Senate members of the Joint Committee on Legislative Reorganization joined in cosponsoring Senate Resolution 58, introduced by Senate Chiles. The introductory remarks of Senator Chiles and of mine, state the problem.

Consideration of this resolution is a matter of some urgency. Already two committees of the Senate have indicated that they want open sessions for voting and for markup of bills. At least two other committees are considering the adoption of a rule permitting such open meetings. Perhaps there are more that have not come to my attention.

Under the Legislative Reorganization Act, committee rules must be published in the Congressional Record before March 1. In addition, a parliamentary question as to the authority of each committee to hold open and public markup sessions on a bill may be raised by a point of order on the submission of the first legislation emanating from a committee which has adopted an open rule.

The question can be readily and easily resolved by the reporting and adoption of Senate Resolution 58, or similar language. I hope the Senate Rules Committee can have speedy hearings on this resolution.

All good wishes and kindest regards,
Respectfully,

LEE METCALF.

Mr. President, it is in that context that the Committee on Rules and Administration has reported Senate Resolution 69 to the Senate for consideration. I point out that this would give the committees the authority, pursuant to those requests, to open the committee sessions to the public if the committee by rule or by a majority vote so determined.

This leaves it up to the vote of the majority of the committee to make that determination, either by that rule or by a specific motion, and we feel that is the way it should be. I submit that the resolution should be passed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and request that the time for the quorum call be charged against both sides of the resolution.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROTH. Mr. President——

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. ROTH. I yield myself 5 minutes.

Mr. President, Senate Resolution 69 is a step forward in removing the cloak of secrecy from executive sessions of Senate committees. It would certainly remove whatever amount of ambiguity exists as to whether specific committees can by their own rules determine to open markup and voting sessions to the public.

But though Senate Resolution 69 is a step forward, it is not in my judgment an adequate step. I believe that there are two serious defects with the resolution as presently worded. The first of these, and the most glaring, is that Senate Resolution 69 continues the presumption in favor of closed committee meetings rather than shifting to open committee meetings. This seems to me to be contrary to the logic and essence of American participatory democracy. The second defect is that it would not establish a uniform open-door policy for all committees and subcommittees. Let me discuss each of these defects separately.

When we meet in executive session we are certainly dealing with the public's business. Important decisions are taken that affect the form of the legislation under discussion; compromises are hammered out that make important changes in the scope and significance of legislation; voting is taken which may determine whether a piece of legislation is reported favorably—or even reported at all. This is a crucial part of the legislation process, and yet according to Congressional Quarterly, 98 percent of markup and voting meetings last year were closed to the public. I feel that this reflects more the force of habit rather than any deliberate intention to hide our business from public view.

It is my belief that in a democracy the emphasis should be on disclosure. This is true of the legislative process just as it is of the executive administration. The people have the right to know how we vote, how we shape legislation, and where we stand. This cannot be an unqualified right. There are times, of course, when there are compelling reasons for secrecy, as when vital national security issues are being discussed or when the business may tend to defame the character of an individual. But these should be the exceptions, and not, I emphasize, the general rule. Unfortunately, I am afraid that the passage of Senate Resolution 69, as reported by the Rules Committee, would continue to make secrecy the general rule.

The second defect I referred to was the lack of a uniform standard for openness. Under this resolution. each committee will be allowed to make its own rules concerning open and closed sessions, thus encouraging the development of a haphazard system of rules for each committee. These will reflect the prevailing prejudice of the committee majority in any one session of Congress rather than the nature and sensitivity of the business under consideration at any one time.

It seems to me only equitable that the private citizen should have the same basic right of access to all committees. This concern was part of the reason that Senator HUMPHREY and myself offered a resolution, Senate Resolution 22, that would have given the citizen such a right except in the case of national security issues or when an individual's reputation might be involved. I believe that this consideration also lay partly behind two other proposed pieces of legislation, Senate Resolution 65, which Senators STEVENSON and MATHIAS introduced, and S. 260, Senator CHILES' "Government in the Sunshine Act." Like Senate Resolution 22, this other legislation would have created a uniform code of openness, although the list of qualified areas were somewhat expanded.

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

Mr. ROTH. I yield myself 2 more minutes.

Senate Resolution 69 is not an adequate response to two closely related and very serious developments—the erosion of public confidence in Congress and increasing public doubt that Congress is acting in a responsive and responsible manner. It is a matter of great concern to me as I am sure it is to all Senators, that recent surveys have shown a marked decline in public confidence in Congress as an institution. While this erosion has many facets, one major contributing factor has been the nagging doubt about what Senators may be doing and saying behind closed committee doors. The Senator from Tennessee (Mr. BROCK) put the problem very well last week, when he said:

We can be as pure as the driven snow in our motives and actions. But if we act in secret, we will be suspect.

There are those who argue that open committee sessions will hamper the smooth flow of business and cause inefficiency in Congress. I would not discount these arguments for 1 minute, but I believe that, on the contrary, open committees will strengthen the Senate as an institution in many important ways. In the first place, openness should give new life to the links between the citizen and his Government. It will permit him to see his Senators as people in a more informal setting where much of the rhetoric that usually enshrouds legislation is stripped away and the real issues are more starkly revealed. This should give the citizen a greater understanding of the legislative process and the reasons behind the votes of his elected Representatives.

Second, openness will permit the individual private citizen the same right of access to committees as any organized lobby group has. I think this is extremely important, because of the widely recognized practice of appointing Senators and Congressmen to committees in which they have a considerable interest already because of local constituent interests. By increasing public access, these Senators and Representatives will become responsible to a larger public community.

Third, openness should permit a better flow of information within the Senate itself. Openness should also limit the extremely dangerous practice of selective and biased leaks of what goes on within executive sessions. A number of us have been subject to misrepresentation of our positions though sometimes to the good as well as to the bad. As the Washington Post said in an editorial last November:

Given the power which committees wield, voters should certainly be able to find out

which legislators do what in committee without having the news filtered through self-serving leaks and selective announcements.

Finally, let me reemphasize what is now a familiar theme. Government behind closed doors has contributed to creating a wedge between the citizen and his Government. I feel that more and more the man or woman in Laurel, Del., or in Coos Bay, Oreg., or in any of the many thousands of other localities—both large and small—feels that the Government is a separate world. This Government appears to be responding more to the machinations of an impersonal and byzantine bureaucracy—whether it be a congressional bureaucracy or an executive branch bureaucracy—more than to the needs of the common citizens. It seems to have its own laws, its own modes of operation divorced from the people. The man or woman begins to feel that he or she is more a subject of this Government than its citizen.

This man, or woman sends his representative to Congress, but he has a difficult time keeping track of what that representative is doing. He may see him in a press conference, read his newsletter, follow his floor votes, but he cannot see or have access through the media to the give-and-take that is the stuff of American politics. This give-and-take occurs more in committee than anywhere else.

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

Mr. ROTH. I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 1 additional minute.

Mr. ROTH. Mr. President, if we are going to expect this man's or woman's loyalty to the institutions of democracy, I think we are going to have to make a more concerted effort to give him access to the Government processes, wherever possible. Openness can help heal the gap between citizens and Government. It may entail some discomfort for us; it can put a little more pressure on us. But in the interests of good government, public accountability, and an informed electorate, I hope we will accept the small sacrifices it may entail.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides on the resolution.

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

RECESS UNTIL 2 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 2 o'clock p.m. today, with the time to be charged equally against both sides on the resolution.

The motion was agreed to; and, at 1:05 p.m., the Senate took a recess until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. SCOTT of Virginia).

AMENDMENT OF RULE XXV

The Senate continued with the consideration of the resolution (S. Res. 69) to amend rule XXV relative to open and closed sessions of committees.

AMENDMENT NO. 23

Mr. ROTH. Mr. President, I send to the desk my amendment No. 23 and ask that it be stated.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD at this point along with a list of the cosponsors of the amendment.

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

The text of amendment No. 23 is as follows:

Beginning on page 1, line 5, 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 rollcall, determines that all or part of the remainder of the meeting on that day shall be closed to the public.

The list of cosponsors of amendment No. 23 is as follows:

Birch Bayh	Harold E. Hughes
Joseph R. Biden	Hubert H. Humphrey
Bill Brock	Charles McC. Mathias
Lawton Chiles	George S. McGovern
Dick Clark	Gaylord Nelson
Marlow W. Cook	Bob Packwood
Alan Cranston	Charles H. Percy
Mike Gravel	William Proxmire
Philip Hart	William V. Roth, Jr.
Floyd K. Haskell	Robert T. Stafford
Mark O. Hatfield	Adlai E. Stevenson III
William D. Hathaway	John V. Tunney

Mr. ROTH. Mr. President, this amendment is a product of many minds. In particular, Senators BROCK, CHILES, COOK, HUMPHREY, MATHIAS, and STEVENSON have played an important part in its shaping. As I said earlier in the day, we feel very strongly that the public has a right to know about the public's business and that one of the most important parts of the public's business is the decisionmaking of Congress. I should like to emphasize that one of the most critical links of the legislative process is the so-called markup time or period when legislation is actually drafted in committee. I believe that a private citizen or a member of the press who now has the right to go into the Hall of the House of Representatives and the Senate Chamber to listen to debate, to hear the compromises, how Representatives and Senators vote, should also have the right to participate or at least to sit in on all aspects of a committee's business. That is what we are attempting to do by our amendment. We are attempting to shift the presumption of Senate Resolution 69 from secrecy to openness.

We recognize that there are exceptions to the general rule that committee business should be open to the public, and therefore we provide that if a majority agree that the business under consideration should be confidential, they can vote to hold the meeting in executive session.

But, as I say, we want to shift the presumption from closed meetings to open meetings and put the burden of proof on those who would close the meetings rather than on those who would leave them open.

Accordingly, our amendment would require that committee meetings, including the markup meetings, would be open except when the majority, by a rollcall vote, decides to close them. I think that openness will put the people in closer touch with the work of Congress, make Senators more accountable to their constituents, and will result in a freer flow of information not only between citizens and the Senate but also within the Senate itself. It will strengthen the Senate as an institution. It will give the private citizen as much information about the course of legislation as any organized groups now have.

But we have provided very clear safeguards in this amendment so that the privilege of executive session is not abused. The committee members must first meet in open session to vote on whether to close all or part of a meeting. A quorum must be present; a rollcall vote must be taken; and no such vote can be in effect for any longer than 1 day. I think these safeguards will ensure that the vast majority of committee meetings are open in the public and only a necessary minority are closed. The amendment is designed to provide openness without limiting flexibility.

Mr. President, you can tell from the cosponsors that this is a nonpartisan effort, except in the sense that we are all partisans of open participatory democracy.

Mr. President, I urge adoption of the amendment.

At this time, I should like to call upon the distinguished Senator from Kentucky (Mr. COOK), who is a member of the Committee on Rules and Administration, and yield him 5 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOK. Mr. President, I thank my distinguished colleague from Delaware and say that we have debated this issue on many occasions in the committee, of which I am a member, and we also debated it in the conference committee at some length but came to no real conclusion as such.

I have found, in my period of time on that committee, that we would have been far better off had we had open meetings.

The reason we would have been better off is that we had, somehow or other, individuals who wanted to come to closed meetings for no other reason than the fact that they were closed meetings. We found that the room was full of staff personnel who had nothing to do with the bill that was being marked up but they happened to be there. I must confess there is some attraction to wanting to be in a place where one is not supposed to be, or at least appear to be in the position of being somewhere where one is not supposed to be.

Another fact that becomes obvious is that when we have a closed markup meeting, we do not have the markups available to the public, yet somehow or other the public reads about them in a distorted way. We might, for instance, read about a discussion that occurred yesterday or the day before in Jack Anderson's column. When he gets through with his brush and pen, we would not recognize what we had said the day before, or what our colleagues had to say. So I might suggest that this would take care of these secret little people we have around the Capitol and around the buildings—it would take care of these little people who leak information in all sorts of ways, because they would not have to give it to Jack Anderson or someone else to make it public. We would make it public by making it public legislation. After all, we are the ones who are about the public's business.

So, Mr. President, as a cosponsor of amendment No. 23, I rise to support the efforts by Senator ROTH and others to amend Senate Resolution 69. In so doing I find myself in opposition to report No. 93-43 from the Committee on Rules and Administration of which I am the ranking minority member. However, I hasten to add, that my action is entirely consistent with the position I have always taken in regard to open sessions of committees and subcommittees of the Senate.

Senate Resolution 69, would amend rule XXV by requiring that all meetings of the standing committees of the Senate, other than the conduct of hearings, shall be open to the public except during closed sessions for marking-up bills or for voting or when the committee orders a closed session. The resolution provides that any such closed session may be open to the public if the committee by rule or majority vote so determines. While it purports to encourage open sessions, I submit to my colleagues that the thrust of this resolution is to encourage closed sessions as it requires a positive action to open specific sessions to the public.

The purpose of the amendment to Senate Resolution 69, is to reverse the emphasis of the existing rule from closed sessions to open sessions. It provides that meetings, including mark-up of legislation, of each standing committee of the Senate or subcommittee thereof, other than for the conduct of hearings, shall be open to the public except when the committee or subcommittee in open session and with a quorum present determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public.

Mr. President, I do not quarrel with the legality of the action taken by the Committee on Rules and Administration and I submit that the action in reporting Senate Resolution 69 was entirely within the rules of the Senate. However, I think it a bit strange that a proposal as important as Senate Resolution 69 reached the floor of the Senate without this Senator's notice. I must accept part of the blame for this failure.

On February 20, 1973, the Rules Committee met in morning and afternoon sessions for the primary purpose of considering the budgets for the various committees of the Senate. As such, these meetings were tedious and demanding as they dealt with the lifeblood of the committee system. I was present for the entire morning meeting. However, because of other committee hearings I could not attend the afternoon session. On page 2 of the agenda for February 20, was an item which I quote as follows:

Original resolution to amend rule XXV of the Standing Rules of the Senate relative to open and closed sessions of the committee.

From this rather innocuous item, we have before us what we now know as the very important Senate Resolution 69.

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

Mr. ROTH. Mr. President, I yield 2 additional minutes to the Senator.

Mr. COOK. A review of the record of the late afternoon meeting of the Rules Committee indicates that the subject was introduced with the statement that it could be disposed within 2 or 3 minutes and the sum total of three short pages of discussion were devoted to this far-reaching resolution before it was approved and sent to the floor. The low key in which the action was played is highlighted by the question by one member, included in these three pages of discussion, to the effect "was this on the agenda for today?"

Unfortunately, I was not present when this very brief discussion took place in the afternoon executive session of the committee. I make no apology as I had other demanding commitments. Had I been present, I would most assuredly have spoken and voted against it. I emphasize "executive session" because such sessions cut to the heart of the problem we are facing.

I have checked the available records and to my knowledge there have been no open sessions in the Subcommittee on Standing Rules which would have permitted open dissent with Senate Resolution 69. This is difficult to ascertain as the subcommitee meeting was not recorded. Again I admit that this action did not violate any rule of the Senate.

Mr. President, it is the very fact that no rule was violated that is of concern to me. If open meetings are not held by standing committees wherein the public participates by its presence, then I do not see how this body can be responsive to the American people.

The function of the congressional committee hearings is to represent the views of the public concerning various pieces of legislation. Unfortunately, the committee's accountability to the public is clouded by the extent to which these hearings are held behind closed doors. I believe that open hearings will promote public confidence in our elected officials and help to bridge the gap between these elected officials and their constituency.

To promote this policy change, I was pleased to cosponsor S. 260, the Government in Sunshine Act when it was introduced by Senator CHILES early in this Congress. This act provided that meetings of Government agencies and of congressional committees shall be open to the public except when the subject matter of the meeting involves the national security.

I also cosponsored Senate Resolution 22 introduced by Senators HUMPHREY and ROTH which provided that all meetings of Senate committees and subcommitees be open to the public.

Mr. President, I did think it necessary that this Senator, as the ranking minority member of the Committee on Rules and Administration, clarify the record as to the role he has played in the action which brought Senate Resolution 69 to the floor.

Mr. President, the House has wrestled with this problem, and the House has solved it. I do not think we ought to do it in a negative manner. I think we ought to do it in a positive manner. We ought to show the American people that when we say meetings should be open to the public, that is exactly what we mean.

Mr. ROTH. Mr. President, I ask unanimous consent that Charles Morrisson, of my staff, have the privilege of the floor during the remainder of the debate.

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

Mr. HUMPHREY. Mr. President, will the Senator yield some time to me on this proposal?

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota, who not only is a cosponsor of this amendment but also played a vital role in connection with the pending measure.

Mr. HUMPHREY. Mr. President, I am very honored to have the opportunity to support and to cosponsor the amendment that is before the Senate, which has been offered by Senators BROCK, CHILES, COOK, MATHIAS, ROTH, STEVENSON, myself and a number of others.

On January 18, 1973, I introduced, with Senator ROTH and 17 additional cosponsors, Senate Resolution 22. Those cosponsors are Senators ABOUREZK, BIDEN, BROCK, CLARK, COOK, CRANSTON, GURNEY, HART, HASKELL, HATHAWAY, HUGHES, MONDALE, PACKWOOD, PERCY, STAFFORD, TUNNEY, and BAYH.

Senate Resolution 22 is similar to the pending amendment to Senate Resolution 69. It provides:

Resolved, That the Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"RULE—

"OPEN MEETINGS OF COMMITTEES AND SUBCOMMITTEES

"All meetings of all Standing, Joint, Special, and Select Committees and their subcommittee shall be open to the public, except when the subject matter of the meeting in-

volves the national security, and then only when a motion to meet in executive session shall be adopted by majority vote of the members of such committee who are present at the meeting; and except meetings of any committee or subcommittee in which testimony or evidence presented or considered may tend to defame, degrade, or incriminate any person, in which case such testimony or evidence shall be recieved and considered in executive session, and then only when a motion to meet in executive session shall be adopted by majority vote of the members of such committee who are present at the meeting."

Mr. President, Senate Resolution 22 was referred to the Committee on Rules and Administration. The RECORD should indicate, also, that early in this session, Senator CHILES reintroduced his Government in the Sunshine Act which provides for open sessions of congressional committees. Many Senators, of which I am one, cosponsor this measure.

In addition, Senators STEVENSON and CHILES have introduced important legislation to require open sessions of committee meetings.

I regret to say none of these proposals were accorded hearings prior to the reporting by the Rules Committee of Senate Resolution 69 on February 21. This certainly gives rise to the question, which need not be answered today but which certainly deserves an answer: Does the Senate wish to consider all changes to the Rules immediately on the Senate floor without reference of such proposals to committee for appropriate study? For my own part, I believed the proposal for open committee sessions embodied in Senate Resolution 22 was important enough to give all Senators and the public notice of it and then to encourage full consideration in public hearings.

Mr. President, this procedural question, important as it is, does not begin to compare in importance with the substance of the issue before us. Senate Resolution 69 as reported by the Rules Committee is only a timid step toward open Government. It merely provides, in substance, that each individual standing committee may by rule or majority vote open its markup or voting session to the public. But this rule provides that the markup and voting sessions are otherwise closed, and that a vote to open a session be taken in closed session.

In other words, Senate Resolution 69, as reported by the Committee on Rules, is directly in contradiction of the general open sessions policy proposed in the Humphrey-Roth resolution, the Chiles bill, and the Stevenson-Mathias proposals.

The amendment to Senate Resolution 69 would set this rule on its feet, Mr. President, not stand it ineffectively on its head as Senate Resolution 69 proposes.

The rule should be that all markup and voting sessions are open to the public unless otherwise ordered with good reason and by public record vote by a majority of the committee quorum present. That is what the public interest in an accountable Congress requires. That is what our amendment provides:

(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 rollcall, determines that all or part of the remainder of the meeting on that day shall be closed to the public.

In other words, what we have here is a situation in which the resolution before the Senate, reported by the committee, requires that if you want an open session, you shall have a special vote in a closed session of the committee to order it.

The amendment on which we will vote shortly, proposed by Senator ROTH, myself, and others, states as the general rule of the Senate that all committee sessions are open, since we are doing public business, accountable to the public, unless the Senate committee adopts by rollcall vote in open session a resolution to close the session, for example, because of national security reasons or because there might be information that could be of some particular damage to a witness.

Mr. President, we are talking about the critical stages at which the Congress conducts the public business—the markup and voting sessions. That is where, in surely 98 percent of the decisions made by committees, the public is excluded.

Please note that the amendment we support does not insist that every hearing be automatically open. In some committees there are regularly held hearings for which a closed session is justified. We would not require a general Senate procedure in this respect. But we do believe a general procedure governing all standing committees which requires open markup and voting sessions is an essential attribute of a responsive and accountable legislature.

Allow me to summarize the benefits of an open-sessions policy, as I see them.

Senators, as committee members, will be fully accountable to their constituents at the crucial stage of the legislative process, both as to their leadership within committee and their votes.

An open-sessions procedure will increase public respect for the legislative process and for the Congress as a whole.

The elimination of secrecy will strengthen legislation by making expert points of view available in the crucial moments when a bill is written in final committee form.

Open sessions will increase the influence of the informed public and of public interest groups in open competition with the executive branch and the special interests who now have special access to markup sessions in many cases.

Open committee and subcommittee sessions will provide insurance against hidden provisions or poorly drafted ones in legislation reported to the Senate.

Full access to committee sessions will improve the reporting and understanding of legislation by the news media.

Now, Mr. President, we have heard several arguments, at least implied, against our open sessions amendment.

But we have heard very little assertion, of course, that the public has no right to know what goes on in markup and voting sessions. To agree with such an assertion would be the same as saying "the public has no right to know any position or vote of a Senator until he chooses to let the public know." It asserts that the Congress is an institution designed to keep legislators protected from accountability to the voters. That is not the right to information about Government, not the accountable Congress, which the public expects.

Instead, it is protested that an open markup sessions rule would merely result in earlier, secret meetings to make decisions now made in closed markup sessions.

First of all, Mr. President, I would not malign my colleagues by arguing that the spirit of the open sessions rule would be willfully and massively obstructed. I think Senators would find that the rule would not be so onerous. I would give Senators the benefit of any doubt that they now do so many things in markup sessions which could not stand the light of day—the "sunshine" our colleague from Florida speaks of. Certainly, some private discussions occur between Senators now and would occur under our open-sessions rule. But the official actions of the formal subsidiary bodies of Congress—the committees and subcommittees—would be accountable.

Mr. President, the Democratic caucus in the House of Representatives has adopted a rule similar to the one we propose. It will be considered by the House Committee on Rules soon.

But regardless of the action in the House, this body should lead the way to open, accountable Government. I urge the adoption of our amendment to require the same rule of accountability for all arms of the Senate, for all Senators.

If we agree to Senate Resolution 69 as reported, we agree to make some committees and some Senators "more equal than others." If the decision whether to be accountable is left to a majority of each committee, as Senate Resolution 69 proposes, rather than taken up and decided by a majority of the Senate as a whole, as my colleagues and I propose, then some committees will not be accountable. They simply will not open their work to public scrutiny. We know that.

Moreover, an intolerable burden will be placed on those individual committee members who believe in open Government and who will be forced to urge open sessions within their committees without the support of the Senate.

Mr. President, several committees have made progress on their own and they should be commended. But this is no substitute for the Senate declaring and enforcing the right of the people to democratic decisions in Congress, openly arrived at.

A vote for our amendment is a statement of belief in democracy, of belief in the right of people to know the facts and to make their own decisions through representative government. This is good legislation, in the public interest. We have nothing to hide, and I think it can promote a much better procedure in Congress.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Montana, but before I yield I ask for the yeas and nays on the amendment by the Senator from Delaware (Mr. ROTH).

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. METCALF. Mr. President, let us get this amendment in perspective. When the Legislative Reorganization Act in the 90th Congress was before the Senate under the leadership of Senator Monroney, he accepted an amendment on the floor that was supposed to open up and make more public the various sessions of committees. Senator Yarborough, who submitted that amendment, was very much concerned about open hearings. In the 91st Congress the bill subsequently came to the Senate from the House of Representatives and the old Senate bill never went to committee. We proceeded on the basis that the Senate bill from the previous session should be considered as the committee report and worked on that bill.

This section of the law that is before us (sec. 133(b)) was not debated or discussed. All of us, as the chairman of the Committee on Rules and Administration has already suggested, thought that the Legislative Reorganization Act was opening up committee meetings and providing for open hearings for all committees and opportunities for open markup and voting.

Then, this year when two committees, at least, of the Senate voted to bring about open executive meetings, open markups, and open voting it was suggested that a point of order might be raised against any such bill as reported as violating the rules of the Senate. The language is at least ambiguous. The easiest way to resolve that uncertainty was to amend the rules of the Senate so it would be possible to have open markup or voting without violation of the rules of the Senate.

I must commend and applaud the Committee on Rules and Administration for acting very promptly in view of the urgency of the situation. Under the Reorganization Act Senate rules are supposed to be filed by March 1. Some committees of the Senate had already adopted rules that provided for open markups and open voting and, of course, that raised the question of a point of order being referred to the floor of the Senate and a question of whether or not in perhaps some litigation concerning the bill, whether the bill was passed in accordance with the rules of the Senate. Therefore, the Committee on Rules and Administration very promptly acceded to the urgency of the situation and tried to pass an amendment to rule XXV that would take care of the rules presented by the ambuiguity of the Legislative Reorganization Act.

Now, Mr. President, make no mistake about it. This is a rule for open hearings; this is a rule for open voting; this is a rule for open markup of bills. All other discussion one way or another is irrelevant. This is an attempt on the part of many of us to bring to the Senate the proposition that we should have open markups, public voting and open hearings; complete openness before the people of the United States. But this is also a recognition of the sovereignty and the autonomy and independence of the various committees of the Senate.

So the rule that was reported provided that the Senate can have open hearings can have open markup and open voting.

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

Mr. ROBERT C. BYRD. Mr. President, I yield 3 additional minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator is recognized for an additional 3 minutes.

Mr. METCALF. The rule that was reported provided that the Senate can have open hearings if the committee by vote or rule provides for such hearings. The Senate can have open markup and open voting if by rule and open vote they can do that. But it does preserve the independence of the various standing committees. This is a resolution for an open rule; this is a rule for independent public markup and public voting.

I know that the Committee on Interior and Insular Affairs has already unanimously voted for public markups and public voting, and, on another committee on which I serve, I hope we will be able to muster the votes to adopt the rule for openers. I do not know whether on all committees it will be possible to obtain such a majority vote. I am not familiar enough with the activities of some of the committees to know whether that will be possible, or even advisable.

The committees on which I serve should be open to the public. I am going to try to muster the majority vote that is necessary to get that vote when Senate Resolution 69 is adopted. But some committees may not want to adopt such a rule and that should be within the power of a majority of such committee.

But the amendment does only one thing. It merely provides that each standing committee of the Senate shall have an opportunity to vote on whether its votes or its markups shall be open.

Again, make no mistake about it, this amendment to the rules of the Senate provides for open public markups and open public voting in the committees of the Senate, if any Senate committee can muster a majority vote for that purpose.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Montana for his statement in opposition to the amendment offered by the distinguished Senator from Delaware (Mr. ROTH).

Does the distinguished Senator from New Hampshire (Mr. COTTON) wish me to yield time to him in opposition to the amendment?

Mr. COTTON. Yes.

Mr. ROBERT C. BYRD. I yield 5 minutes to the distinguished Senator from New Hampshire in opposition to the amendment.

Mr. COTTON. I merely want the time to ask a couple of questions, in order to clarify my own thinking.

Is the amendment offered by the distinguished Senator from Delaware in such language that markups or voting will be open unless the committee votes to close the meeting?

Mr. ROTH. That is correct.

Mr. COTTON. As a practical matter, provided a quorum of the committee is obtained in advance of such a session, there might be a committee room partially filled with members of the public when the committee meeting is called to order.

Can the Senator from Delaware imagine, in one of those circumstances, any Senator, no matter what logic or reason he may have for doing so, getting up to make a motion to drive the public out?

Mr. ROTH. I would answer the distinguished Senator from New Hampshire by saying that I would hope that any Senator who feels that there is a compelling reason to move to close a session would do so. I must say that I fully expect, if we are successful in having the amendment agreed to, to vote for a closed session in such circumstances. Certainly I would have no hesitancy in doing so if we are considering a question of national security or a question of the privacy of individuals. I can think of many circumstances when each one of us should have the courage to vote to close the session.

Mr. COTTON. I thank the Senator for his answer.

Mr. MATHIAS. Mr. President, will the Senator yield for a further comment?

Mr. COTTON. Yes, I yield.

Mr. MATHIAS. I just wish to point out that this is, of course, exactly what happens in the Chamber. It is the procedure we have followed on several occasions within the past several years. A motion is made on the floor to have the Senate go into a closed session. If the motion is seconded, the occupants of the galleries are requested to leave and the members of the press leave the press gallery when some highly sensitive item is to be considered or adopted on the floor. So it is not a new procedure in the Senate.

Mr. COTTON. Sometimes there are other perfectly logical reasons for closing a meeting so that Senators can fully and frankly exchange their views, other than for the consideration of classified material or something affecting the safety and security of the country.

My second question, however, is this. The Reorganization Act, if I am correctly informed, excepts the Committee on Appropriations, but the amendment offered to this measure by the Senator from Delaware does not except the Committee on Appropriations. Is that correct?

Mr. ROTH. That is correct.

Mr. COTTON. There are very practical, real reasons why the Committee on Appropriations, in marking up sums of money for various programs, might find it disastrous to have those meetings open. I think there is a real reason why they were excepted in the Reorganization Act. For instance, many times when we are having meetings in the Appropriations Committee when we are marking up appropriations, we say, very frankly, to each other, "We think this program should be financed to the extent of x number of dollars and we think any lesser amount would not be fair to the program."

We know that when we go to the committee of conference, the House is going to cut us and we are going to have to compromise. Therefore, we say, "Let us put in so many dollars extra, beyond what we think is the correct number of dollars, so that when we get to the conference we have something to trade on and can come back with a figure that we honestly believe should be provided for this program."

While that kind of exchange is absolutely legitimate and is the way to work toward a proper goal, can Senators imagine how it would impress the public, unacquainted with the difficulties of the appropriation process? Can my colleagues imagine what the newspapers would do with it? Can they imagine how it would be distorted and how they would say, "Senator So-and-So got up and said they should appropriate x dollars more for this program because he is sure the House will cut it, so he voted for $12.5 million rather than $10 million, in order to give away $2.5 million when they get to conference"?

That is one of the many practical matters to consider. They are not dishonest methods; they are necessary in the appropriating process.

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

Mr. ROBERT C. BYRD. Mr. President, I yield 1 minute to the Senator.

Mr. COTTON. What does the Senator say about including the Appropriation Committees in his amendment now? Has he taken that into consideration? Some of us have spent years on those committees and we know how hard it would be for the public to understand some of the things we have to do in dealing with particular appropriation problems.

Mr. ROTH. I would answer my distinguished colleague and good friend, first of all, by pointing out that one of the cosponsors of my amendment is a member of the Committee on Appropriations, the Senator from Wisconsin (Mr. PROXMIRE).

Second, I would like to point out that this is one of the very areas where there should be, to use the expression of my colleague from Florida, sunlight brought on what Congress is doing. There is a great deal of expression to the effect that Congress is not exercising its responsibility in the budgetary areas. It seems to me that if we are going to meet that responsibility—which I hope we will do—then it is incumbent upon us to have the courage to vote our convictions and to be perfectly willing to vote for what we think is best for a particular program.

I may say it is my practice, even though I dislike doing it, to vote against appropriations——

Mr. COTTON. The Senator is using up my last minute. I simply want to say it is not a question of courage; it is a matter of being able to perform committee functions that would be completely impossible for the public to understand.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CANNON. Mr. President, I yield 1 minute to the Senator.

Mr. COTTON. I thank the Senator.

Members of our committee likely listen to more testimony than any other committee; in fact, that Labor-HEW subcommittee, on which I serve with the senior Senator from Washington, probably compiled more testimony than any other subcommittee in the last Congress. The hearings are always published for the use of the Senate and public.

Their vote is now reported. But if this amendment is adopted, in my opinion it would simply mean that the discussions that lead up to this vote—and perhaps it would be true in some other committees than this one—would just be driven underground. What would happen is that they would have to provide a meeting first to discuss the practical considerations of going to conference with the House and what is going to happen to this program or that program.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. CANNON. Mr. President, I yield 1 minute.

Mr. COTTON. Then it would go into a public performance, where the public would be allowed to hear exactly what one wishes to advance.

I support the bill as reported by the Committee on Rules and Administration. As a matter of fact I will vote nine-tenths of the time to open up the proceedings of my committees. But I must oppose the amendment of the Senator from Delaware because his amendment would keep the sessions open unless the committee voted to close the meeting. I would hate to find a room full of interested persons and have to move to put them out. That is the practical difference between his amendment and the bill as presented by the committee.

The Rules and Administration Committee has given careful consideration to this and has met this issue in a responsible and constructive way that will open many of our proceedings to the public. However, when it is necessary to have a frank and healthy exchange of views among the members, the committee could also go into executive session.

Every Member of this Senate was sent here by a majority of the voters of his State who selected him because they trusted him. How can we expect people to trust us if we do not trust in each other?

Mr. CANNON. Mr. President, I yield 5 minutes to the Senator from Missouri.

Mr. SYMINGTON. I thank the able Senator from Nevada.

Mr. President, I would ask the Senator from Delaware several questions after making a few comments. I have served on committees where I believe the amendment, as offered, would not be out of order; but the amendment worries me from the standpoint of how it would operate in other committees on which I now serve.

How would this amendment affect the Joint Committee on Atomic Energy?

Mr. ROTH. The resolution which we are amending involves only standing committees, and not the joint committees.

Mr. SYMINGTON. If something is to be done in this field, I think it unfortunate the joint committee is not included. There is a committee where secrecy, in my opinion, has possibly cost the American taxpayers more unnecessary money than any other committee in the Congress, because the American people still do not realize the degree of the lethal capacity of these new weapons.

My second question would be——

Mr. ROTH. Mr. President, if the Senator will yield, I would be happy to join him in an effort to get an open rule with respect to those committees.

Mr. SYMINGTON. I believe it would also have to be discussed with the House.

Would the Senator consider exempting markups from the amendment, so the amendment would simply read against hearings and meetings which were not markups. I agree with the able Senator from New Hampshire that it would be difficult to mark up in open session, an appropriation bill on, say, foreign aid, especially military aid. I also believe it would be difficult to mark up certain parts of a military bill in open session.

On the Armed Services Committee, of which I am a member, it would be difficult to discuss in open session certain aspects of national defense. The idea the full Senate would leave this up to the committee in question worries me from the standpoint of the position of the entire Senate on matters of that character.

I say to the able Senator from Delaware, if he would eliminate markups, I would support his amendment. But I cannot support it if he includes markups of bills.

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

Mr. ROTH. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 3 additional minutes.

Mr. ROTH. Mr. President, I would point out that it is one of the principal thrusts of the amendment, in all candor, that it should include the markup. It seems to me that this is one of the most critical links of the legislative process. Basically that is where the legislation that is reported to this body comes from. If we eliminate the markups, we would be gutting the whole thrust of the proposal.

We are trying to show that we think the public, the private citizen, and the members of the press should have the right to sit in on that process. So, I respectfully decline.

Mr. SYMINGTON. I thank the Senator from Delaware.

Mr. ROTH. Mr. President, at this time, by prior request, I yield 3 minutes to the senior Senator from Maryland.

The PRESIDING OFFICER. The senior Senator from Maryland is recognized for 3 minutes.

Mr. MATHIAS. Mr. President, I would like to applaud the members of the Committee on Rules and Administration for the action that they have taken in bringing this resolution to the floor. The Committee on Rules and Administration has taken a progressive step toward congressional reform because it recognizes the fact that it is a matter for thoughtful consideration as to whether or not committee meetings should be open or closed. And they have provided at least the op-

portunity for members of the committee and of the Senate to make that judgment.

What we are really talking about here is simply the presumption which precedes that vote. Are we going to presume that the conduct of the people's business, which they certainly should be able to witness, should be closed unless a decision is made to open the meeting?

I personally feel that I would like to go an extra step from that which the committee has taken. However, the committee has moved and it should be applauded for that.

As I listen to the debate here, there is a little bit of an echo to those of us who have read the debates which took place nearly 200 years ago as to whether or not there should be a public gallery in the Senate or whether the Members of the Senate should be exposed to the public view as they discuss a question. The arguments made here are the same as the arguments made then as to whether the Senate should have a gallery. The public may not find the debate interesting or edifying, but at least they will see what happens. That is the important thing, that they know what goes on. The important thing is not what goes on behind closed doors, because what goes on behind closed doors may be different. Instead of the wheeling and dealing and hijinks, the fact is that it is sober and serious stuff. We have to dispel the idea of the public that something wrong or reprehensible is going on behind closed doors. We should let the public look at it.

There is nothing occurring there that we should be ashamed of. I think that, by and large, with the exception that the amendment is too general, we should open the doors so that people do not have to imagine what is going on, but can see it. It is their business, and they have a right to see it. Why not open the doors? It is as simple as that.

I believe that the amendment is right. I believe that it will go a long way toward restoring confidence in Congress, which is a matter in which not only we as Members of the Congress have an interest, but also every citizen has an interest, because this is an integral part of our Constitution.

Mr. ROTH. Mr. President, I yield 1 minute to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 1 minute.

Mr. COTTON. Mr. President, I want to say to the Senator from Delaware, for whom I have great respect, that he is only scratching the edges. There is one place in which there is wheeling and dealing, in the words of my friend, the Senator from Maryland, or in which the back scratching takes place, and it is not in the Senate committees. We can be very pious and hold up our committee hearings to open view, but it would take a joint resolution to open up the committees of conference that meet to compromise the different versions of a bill as passed by the two bodies of Congress. If we pass such a resolution, the public will really get a look into the internal workings of the Congress. If we want to really go into length and really open up the secret places, there is a place where we have dickering, and that is a place in which we trade back and forth. That is a place in which one Congressman gets something for his State and swaps something else for somebody else's State.

Therefore, if we open up the Senate committee sessions before they come to any conclusion, we should not fail to follow up with a joint resolution to open up the real inside workings where 10 times more dickering and wheeling and dealing takes place, and that is not in the Senate committees, even in the Appropriations Committees, but in the conference committees.

I would love to have the public see some of the sessions that we have had. I am afraid that if they are ever open to the public it would take 6 months to ever come to an agreement. I believe if visitors witnessed these proceedings they would leave here the most bewildered and confused people on the face of the earth.

Mr. ROTH. Mr. President, I will answer the question raised by the Senator from New Hampshire and will then yield to the Senator from Florida.

I agree that this is only one step in opening up the governmental procedure. As one who feels very strongly that the executive branch should also open up its doors, I think we are not in a very good position to be critical of others unless we are willing to do the same thing with regard to our own proceedings.

I say to the Senator from New Hampshire that I hope we will move forward. I understand that the House side is moving forward on the House hearings.

Mr. President, I yield 1 minute to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 1 minute.

Mr. CHILES. Mr. President, I have introduced a bill in which there are some 24 cosponsors. That bill would reach the problem of the conference committees that the Senator has mentioned, as well as the committees of the House and the Senate, and would deal with the executive branch and let a little sunshine into all of this. And I think that the public should be free to look and see what is going on in Congress. I think that if they were, they would do something about it in the future.

Mr. CANNON. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. TOWER. Mr. President, this measure has been referred to as progressive reform. Reform it is. However, progressive it is not, because I foresee that this type of proceeding, opening up markups, will actually prolong the work of the Congress.

I can foresee that before every vote that is taken during the markup session, each individual Senator will have to make a speech to justify his particular position on that vote. And I foresee, also, that every individual Senator is going to have to be zealous in his advocacy and defense of some narrow, parochial interest that, in a private session, he might be subordinate to the greater good of the work of the committee, but which, for the sake of his own political viability, he cannot do if these meetings are to be made public.

Now, if these proceedings are to be made public, we can count on our authorization and appropriation bills getting bigger, and bigger, and bigger, because when any Senator or a committee has the opportunity to advocate some sort of authorization or appropriation for some narrow constituent matter in his State, make sure that he will feel impelled to do so or subject himself to criticism by that special or narrow constituency or locality in his State, where you meet is of some local importance.

So I do not perceive that this is a progressive step at all. It is a regressive step from the standpoint of the orderly conduct of Senate business.

If we are going about this totally and effectively, so that the proceedings will not be driven underground, as suggested by the Senator from New Hampshire, I think we should make it a rule that no more than two Senators in this Congress can assemble without that assembly being open to the public.

If we really want some smoke-filled room politics involved in committee business, let us adopt the proposal of the Senator from Delaware, because I can foresee that there will be caucuses of members of the various committees in their private offices about some legislative determination that, because of the sensitive nature or the politically charged nature of the matter, cannot be made in a public markup.

So I wonder if the Senator from Delaware would not carry his proposal a step further, and make it contrary to the rules for more than two members of a committee to gather without serving adequate notices and providing for a public audience. I think that, then, would carry the idea of sunshine into all of our proceedings even further. Or we might even go a step beyond that, and provide that all telephone conversations of Senators must become a matter of public record and be published, or all private conversations between Senators.

I think we are carrying this thing to a ridiculous extent, if we adopt the proposal that has been offered here. Furthermore, men are going to speak with greater candor, I think, when they can speak in the privacy of a committee room than if they have to speak for an audience. And I can foresee that some Senators—none who are here now, but some who might be elected in the future—would be tempted to some kind of demagoguery during a markup and indulge in some kind of public grandstanding, trying to make a record for themselves with the press.

So, as I say, I think this is not a progressive step at all, but indeed a regressive step, and one the necessity for which is obviated by the fact that on the floor of the U.S. Senate we have no closed rules. Any Senator can offer amendments to any bills. There is free and open debate on those amendments, and the way Senators vote and the stands they take are matters of public record. Indeed, the votes they make in committee are now a matter of public record.

So I would urge the Senate not to inhibit its business by adopting the proposal of the Senator from Delaware.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. I yield 5 minutes to the Senator from Rhode Island.

Mr. PELL. Mr. President, having listened to the debate for a while, and having heard the proposal of the Senator from Delaware, I would say there would be an analogy if we were to ask the executive branch to open up Cabinet meetings, where the decisions are made, to the press or the meetings of the department heads with departmental officials where the decisions they will put forward are made.

I submit that what would happen here, if we were to do this, with all the markup sessions that occur, is that we would not find the general press in attendance at those meetings, but we would find representatives of the special interests at the meetings, each looking out for the interests of their groups.

I know sometimes when we have had open meetings of executive sessions, but not markups, in the Rules Committee or in the Committee on Foreign Relations, the press attendance, unless it is a spectacular subject, has been very modest. We had some meetings the other day that were open to the public and no press at all bothered to come. If we were to open all these meetings, those who would come would have a special ax to grind, and each would make sure he exacted his pound of flesh from the legislator with whom he had an ax to grind.

We would also find that the meetings that would really bring views together would take place, not in the committee rooms, but in the halls outside the Chamber. I believe if that occurs, the interests of the people would be harmed. It would, as the Senator from Texas said, very much prolong the legislative process. It would insure that the lobbyists would really make sure that they got their pound of flesh out of their Senators and Representatives, and I do not think it would have any beneficial effect.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. I yield 5 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, it has been my experience in government that the scarcest commodity among legislators is intellectual courage. It is sometimes very difficult to get Senators, Representatives, and other legislators, to do what their conscience tells them is right, for fear that they might be misunderstood.

I can recall, some years ago, when President Truman dismissed General MacArthur from the conduct of the war in Korea. I do not recall any greater hysteria that ever seized the Nation more than that. It was suggested that when General MacArthur came back to testify on the conduct of the war, that there should be an open meeting in front of television, so everyone could see it.

There is no doubt in my mind that if that meeting had been held in public and on television, General MacArthur would have been the next President of the United States. If General MacArthur had asked for it, my guess is that it would have been held in public. But that great American did not ask for it, for a very simple reason: I think he knew, just as everyone who was troubled in his conscience about this matter knew, that there was grave danger that the open testimony of witnesses about the conduct of that war in Korea could cost us the lives of Americans on the battlefield.

I recall we were walking back to vote or answer a quorum call about that matter, and I asked the Senator from Mississippi (Mr. STENNIS)—who is unfortunately not able to be with us at this time—how Senators, knowing that this could cost us lives, could yield to the pressure and the political desires of that moment to vote that that hearing on the conduct of the war, as controversial as it was, be conducted where any slip of the tongue of a witness honestly discussing differences of opinion might cost us the lives of a great number of Americans.

I recall Senator JOHN STENNIS, on that occasion—and I have repeated it to Senators from time to time since that time, because it amused me in some respects—shook his head and said:

Russell, sometimes you have to vote to save this country even if it is not popular.

I believe that is the sort of situation we have here. There are some times when that Armed Services Committee is going to have to close its doors to discharge its duty to the country. There are some times when the Committee on Foreign Relations is going to have to close its doors, if it is seriously trying to protect the interests of the Nation. There are times when the Committee on Finance is going to have to close its doors, to protect the interests of the country and discharge its obligations. We in the Finance Committee have had only one closed meeting this year, since people started talking about more openness. But in that meeting, here was a man from the executive department on his way to negotiate trade agreements in behalf of the United States, prepared to tell us what his objective was, and what he hoped to accomplish.

Mr. President, if you have a negotiator tell a committee in public what his first position is, what his second position is, what his third position is, and what his final fallback position is, before the negotiation starts, then on the day he opens negotiations, he will be at his final fallback position, and his opposite number will not have backed away from their first one.

We have heard complaints that the Executive will not take the legislative into its confidence. Mr. President, if you are talking about negotiating a trade agreement or a treaty with another nation, obviously the Executive cannot take us into his confidence about that sort of matter, if he feels that we would violate that confidence or disclose that information prematurely.

As to this argument of openness, yes, I say it is fine, provided it is used in a way that we are not victimizing the Nation's interest. But, Mr. President, it can be overdone. I know, Mr. President, that I have called on people to help get together a crowd of people to support one side or the other side at public meetings. There have been meetings when such tactics have been very successful. If the other fellow is going to use it against me, then I will use it against him if I can. I think everyone in the conduct of government, in city councils, in commissions meetings, and other things of that sort in their hometown have seen that kind of thing occur.

I could only notice, when I was trying some lawsuits, that lawyers made the point sometimes, in order to help their client, to make sure that his wife, children, and all the relatives were in the courtroom so that the jury will see all these poor people, knowing that they will see them day in and day out thereafter, hoping that it will make for a larger judgment.

We have seen it the other way, using whatever tactics are available to them, to help these people as much as they could one way or the other.

From time to time it is appropriate that delegations be brought here, and that the most influential citizens be accumulated for one particular side or the other. If a 15-member committee is confronted with 15 delegations with the most influential citizens of a particular group from each State to be there and to sit there and make it clear how important it is to them, in instances this will sway the decision and that is fine so long as no harm will come to the national interest. But our duty is to be responsible. We should have to have courage to do that no matter what any group wants. It is our duty to vote to hold a meeting behind closed doors when that becomes necessary either to protect national secrets or to reduce the power of an organized group to try to stampede the committee. This Senate should not make it any more embarrassing and difficult than it needs to be to arrive at that result. It is difficult enough to vote for a closed meeting as it is, when one feels that the Nation's interest requires it and someone is demanding an open meeting.

Of course, the rule says the majority can open it up any time they want to, but as embarrassing as it is, to vote to close a meeting when someone demands to throw the doors open and let anyone in, why make it more difficult?

Let us look at the practical side. If we know, as I do, that there comes a time, because it will come, there are times in the Finance Committee, there are times in the Appropriations Committee, there are times in the Armed Services Committee, and there are times in the Foreign Relations Committee when we will have to vote to meet behind closed doors and work out our differences, and perfect a bill; so why would we want to vote to say, "You have to vote to close the doors"?

The alternative is to vote to open them. I would rather vote to open the doors 50 times rather than vote to close them once. As a practical matter we have to have this burden, so why make it more difficult, onerous, or embarrassing to Senators than it needs to be, to do what our conscience tells us is in the national interest: to protect what we believe are the best interests of our States, and the Nation.

It seems to me that the position being taken by the Committee on Rules and Administration is statesmanship at its best. I do not believe that this proposal to try to make it embarrassing for the other fellow to do his duty serves the national interest.

For myself, I shall vote for open meetings every time I feel that the national interest is being advanced by them. The Senate should respect those Senators who feel from time to time that a closed meeting is necessary and not make it any more difficult than it needs to be to act as our consciences require.

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Illinois (Mr. STEVENSON).

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The Senator from Illinois is recognized for 5 minutes.

Mr. STEVENSON. Mr. President, first, I associate myself with the Senator from Delaware (Mr. ROTH) as one of the coauthors and cosponsors of this amendment and commend him for his handling of this debate.

The issue raised by this amendment is simple and fundamental: Should Senate committees be free, for any reason or for no reason, to conduct their most important business in secret or should they be required to conduct the public's business in full public view, except when the committee decides to close a meeting by rollcall vote conducted in public?

Eighty-eight years ago, Woodrow Wilson wrote:

> If there be one principle clearer than any other, it is this: That in any business, whether of government or of mere merchandising, somebody must be trusted, in order that when things go wrong it may be quite plain who should be punished.

I submit these words are as true now as they were on the day they were written—somebody must be trusted, and if we are interested in restoring the legislative branch to its proper place in the federal system, the Congress must be trusted.

Trust and accountability are two sides of the same coin: If we persist in conducting our most important business—the marking up of legislation—in secret, we will not be fully accountable to the people, and we will not be fully trusted by the people. The plain and simple fact is that the public will not trust what it cannot see. At a time when barely one-quarter of the American people have confidence in the Congress, we can ill afford to create the impression that we have something to hide.

The vote we are about to cast will place us on record either for the presumption of openness or for the presumption of secrecy. Our amendment enables the committees to close markups by casting a publicly recorded rollcall vote to do so at the start of the markup. We recognize that there are special circumstances under which closed committee meetings are necessary and proper. Those most frequently mentioned include national security and foreign policy considerations, possible invasion of personal privacy, interference with law enforcement efforts, internal committee business such as budget and personnel, and deliberations on nominations submitted to the Senate for confirmation. Under this amendment, there is no danger that a markup will be open when it ought to be closed. If a markup ought to be closed, the amendment provides a clear and simple procedure for closing it. All the committee has to do is cast a vote to do so.

I should like to ask the Senator, is there anything in the amendment that would prevent a majority of any committee or subcommittee of the Senate from closing its doors for any reason?

Mr. ROTH. The answer is absolutely not. There is flexibility. The general rule is to be open, but it does provide for closed sessions where there are compelling reasons.

Mr. STEVENSON. Would it be fair to say that the resolution of the Committee on Rules and Administration provides that markup sessions shall be closed except when a committee votes to open them, which I believe is a restatement of the provisions of the Legislative Reorganization Act that create a presumption in favor of secrecy.

Would that be a fair statement in the Senator's opinion?

Mr. ROTH. I believe that is correct.

Mr. CANNON. Mr. President, if the Senator will yield at that point, I think I am somewhat of an authority on that, inasmuch as this came out of the committee. That is not correct, The resolution gives a committee the authority to adopt a rule by majority vote and to say that markup meetings will be held open. It is misleading to the Members of this Senate, and to the public, to try to give a contrary impression, that this resolution as reported out requires presumption that the meetings will be closed. That is simply not the case. Any committee or any standing committee of the Senate that desires to have an open rule governing open meetings can vote to have such a rule by majority vote and say that every one of the meetings will be open.

Mr. STEVENSON. I thank the distinguished Senator from Nevada, although I think he is making my point. The resolution of the Committee on Rules and Administration says in effect that markup sessions will continue to be closed, except when a committee takes action to open them. I do not know what the difference is between that and the earlier statement. The real question is whether the Senate will accept the position of the Committee on Rules and Administration which establishes and continues a procedure which contemplates closed markup sessions. But the amendment of the Senator from Delaware would reverse the presumption and say that markups will be open, but that they may be closed by majority vote by any committee or subcommittee of the Senate.

The issue is whether we will go on record in favor of a procedure which continues secrecy or a procedure which favors openness. If a markup should be closed, the amendment provides a clear and simple procedure for closing it. All the committee has to do is cast its vote to do so.

Mr. JOHNSTON. Mr. President, will the Senator from Illinois yield?

Mr. STEVENSON. I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. I should like to know whether there is anything in the amendment of the Senator from Delaware that would prevent the committee from restricting the number of people to be present or to restrict the kinds of media which could be present. For example, could we restrict the number of people to, say, 25, or could we keep the television or other electronic media out and let the print media in? Can we, in other words, regulate the amount of public and the kind of public which can attend a meeting under the amendment that the Senator from Delaware is proposing?

Mr. STEVENSON. The amendment provides that the committee may, by majority vote, close its doors. I would defer to the Senator from Delaware to answer that more completely, but I think the language is broad enough to permit a committee to close its doors to part of the way. However, I should think it would be unlikely that a committee would choose to close its doors only part of the way.

Mr. ROTH. The chairman of the committee has authority to keep order, as he does in any hearing, so that I do not believe there would be anything that would prevent him, in order to conduct business, from limiting the number to the room's capacity.

In any event, the committee could take whatever action was appropriate. If they could rule everybody out, they certainly would have a right to permit only a limited number in.

Mr. STEVENSON. This amendment establishes the presumption in favor of openness while also giving the committees the power to close markups in all appropriate cases. We have struck a fair balance, and there is nothing to gain and much to lose if we opt for a presumption of secrecy.

Why should we vote for secrecy when we can vote for openness and still give the committees all the protection they need?

It is argued that open markups will encourage posturing and grandstanding. It might be more likely to encourage better preparation and higher attendance at markups. The fear that some Senators may be more interested in showmanship than statesmanship is wrong—and, in any event, it is not a good reason to deny the public their right to know. It would be unthinkable to close the doors of the Senate Chamber to the public. Yet, the same argument applies here that applies to the committees.

It is argued that open markups will encourage secret caucuses and informal discussions at which the real decisions will be made. What this argument really says is that the members of this body are so hostile to conducting public business in public that they will conspire to get around any open meetings requirement. I do not believe that. The Members of this body will respond in good faith to whatever is decided here today. Unfounded fears of bad faith should not defeat the public's right to know. Many of

us have served in State legislatures and operated with open doors for years, without experiencing any of the difficulties which have been pointed to on the Senate floor today.

What we are engaged in in the Senate is not simply an exercise in openness. It is a monumental effort to regain power that has been lost to the executive. We are pursuing measures to eliminate excessive executive branch secrecy so as to make that branch fully accountable to Congress. If we are serious in our efforts to revitalize Representative Government, we must apply to ourselves the same standards to which we hold the executive branch. Excessive secrecy breeds distrust. It prevents accountability. It does violence to the principle of government based on the informed consent of the governed. Excessive secrecy does all of these things wherever it is practiced, including in our own midst. It is therefore incumbent upon us to eliminate it everywhere, including in the Senate.

The PRESIDING OFFICER. Who yields time?

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

Mr. CANNON. I yield.

Mr. GRIFFIN. Mr. President, without going at this point into the merits of the substitute amendment offered by the Senator from Delaware, I want to join the chairman of the committee in keeping the record straight in terms of what the committee resolution would do.

I take this moment because the Senator from Illinois made a mistake that I think many are making, in assuming that the committee resolution is merely a restatement of the present situation under the Legislative Reorganization Act. It is not. As the Senator from Maryland (Mr. MATHIAS) and the Senator from Montana (Mr. METCALF) have indicated in their statements, whatever one's opinion is of the extent of reform—and one may not believe it goes far enough—the fact is that the committee resolution is certainly a step toward liberalization.

Subsection (b) of section 133 of the present Legislative Reorganization Act reads:

> Meetings for the transaction of business of each standing committee shall be open to the public except during executive sessions for marking up bills.

That has been interpreted as meaning that when standing committees meet for purposes of marking up a bill, the session cannot be open to the public.

The resolution of the Rules Committee does provide, by a simple majority or the adoption of a rule, for opening up markup sessions.

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

Mr. GRIFFIN. I yield.

Mr. STEVENSON. Is it not true that certain committees of the Senate are now holding their markup sessions in public?

Mr. GRIFFIN. I understand that the Committee on Interior and Insular Affairs has adopted such a rule. Frankly, until we adopt the change in rules now before the Senate, I do not think the Committee on Interior and Insular Affairs has the power to do that because a committee cannot adopt rules that are inconsistent with the Standing Rules of the Senate or with the Legislative Reorganization Act.

Mr. STEVENSON. Certain committees are holding markup sessions in public now. They have been doing so for some years in the other body, I believe.

I believe the Senator is saying that the effect of this resolution is simply to eliminate any doubt about the legality of proceedings which now take place in markup behind open doors. Is that not a fair statement?

Mr. GRIFFIN. It certainly would give each standing committee the authority, by adopting its committee rule or by a majority vote, to open the markup session. At the present time, as I understand the Legislative Reorganization Act and the way it is interpreted, they do not have that authority.

What I am trying to do is to keep the record straight as we go along—that we are not just restating the Legislative Reorganization Act. This is a significant reform in present procedures. The Senator from Illinois is free to come to the conclusion that we do not go far enough, but I would like to see some recognition that we are taking a significant step.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. GRIFFIN. I yield to the Senator from Rhode Island.

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

Mr. CANNON. I yield 2 additional minutes to the Senator.

Mr. PASTORE. Does the Senator from Michigan interpret the amendment to the resolution to mean that even the markup of the defense bill would be an open hearing?

Mr. GRIFFIN. Is the Senator talking about the resolution as reported by the Rules Committee?

Mr. PASTORE. No. I am talking about the amendment to the resolution.

Mr. GRIFFIN. Offered by the Senator from Delaware? Yes, that would require that it be an open session, unless action were taken to close it.

Mr. PASTORE. The only trouble with that is that every time action is taken to close the session, it raises an atmosphere of suspicion that the committee has something to hide. That is the thing that disturbs me.

I note that the amendment reads "a standing committee." I am referring, let us say, to the Joint Committee on Atomic Energy. That is the only joint committee of Congress which has the right, by law, to refer bills and to pass upon bills, just as any standing committee.

Would that apply to the Joint Committee on Atomic Energy—that every time we markup, let us say, the weapons request, we have to discuss that in public? I do not see what purpose that would serve.

Mr. CANNON. Unless the committee votes to close the session.

Mr. PASTORE. Unless the committee votes to close the session. And every time they vote to close it, somebody will say, "There they go. They have something to hide."

This matter ought to be given serious consideration. Now what does the committee resolution do? As I understand, under a present rule it is compulsory that every markup be secret. The committee resolution is saying that the committee has the authority, by majority vote, to open the meeting when the committee feels it would serve a public purpose.

I do not think we are too much at variance. What the amendment is trying to do is to say that the session is closed by vote, and the committee is saying that it is open by vote.

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

Mr. PASTORE. I yield.

Mr. METCALF. The amendment by the Rules Committee says there can be a rule for open hearings, but the amendment suggested by the Senator from Delaware says that every time the committee wants to close a committee hearing, a majority vote is required. So we could never have a rule that provided for it.

Mr. PASTORE. Is the Senator from Montana with me or against me?

Mr. METCALF. I am with the Senator. [Laughter.]

Mr. GRIFFIN. We might add another point under the substitute, a quorum of the committee must be present in order to take that action. That is not even true in order to have a closed, or executive, session of the Senate as a whole.

One Senator, without stating a reason, can move that the Senate, as a whole, go into executive session. If it has one second, there does not have to be a quorum, and the session is closed

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

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. It is not correct that under the resolution recommended by the Committee on Rules and Administration any committee that feels nothing is likely to transpire that need be in executive session can make a rule for open meetings at all times for themselves?

Mr. GRIFFIN. The Senator is correct.

Mr. LONG. At all times, and with no exception, their meetings will be open and there will be no closed sessions. I think we have some committees that very well could do that.

I do not think the executive would have any business discussing in public secret information about a weapon, such as a new atomic weapon, or the Nation's most vital defense secrets. They would have no business confiding in us about some secret military operation, or perhaps about receiving intelligence information on what somebody would do to us, or information with respect to conspiracies to the kidnaping of an American diplomat which they were seeking to frustrate.

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

Mr. ROBERT C. BYRD. I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. LONG. Nor would any administration have any business telling us what they might be forced to concede in negotiations they might be conducting, nor any business telling us what they might

have to yield on to get something else in a session on trade, for example, when appearing before the Committee on Finance.

I would think that there are committees that could very well say that all meetings will be open, but I think it would be a disservice to the public interest to require that in each case the committee had to risk being misunderstood in order to do its duty as it saw that duty.

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, first, I wish to preface my remarks by saying I believe in opening to the public all business of Congress insofar as it does not put the security of this country in jeopardy. I think this resolution opens the door in that respect.

The public is entitled to know and it should know almost everything. I am not opposed to that principle. That has been the story of my life. As a matter of fact, I have found that in some of our executive hearings almost everything that transpires appears in some news column not long after we are out the door, and sometimes you are quoted more accurately than the way in which you said it. [Laughter.]

I am not against opening up all the information possible, but I do have some reservations, I think, and I will be corrected if I am mistaken, that I am the only man in this Chamber at the moment who is a member of the Subcommittee on Appropriations for Defense. I think the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is the only Member in the Chamber at the moment who is a member of the Committee on Armed Services. At the present time I happen to be connected with the Joint Committee on Atomic Energy. Mr. President, in these important committees, you would be surprised at the classified information that has to be discussed when you mark up a bill.

Now, when you tell me you are mandating to open up these hearings to the public, I am afraid we are playing footsies with the security of this country, and that is dangerous.

What happens with the committee resolutions? We meet to mark up a bill. If it is felt it should be opened up, it is opened up. This gives you the opportunity to do it. The committee exercises its judgment.

I say frankly that I think we are indulging a little in semantics. The amendment opens up every hearing unless you vote to close it; the committee resolution would close every hearing and by vote would open them in the public interest.

We have to consider the facts of life—our Nation's life—in view of the fact that we have Red China, in view of the fact that we have Russia, in view of the fact we have 7,000 atomic weapons spread all over Europe, and in view of the fact that we are spending almost $80 billion a year for the defense of this country, let us protect our security by exercising practical commonsense.

Mr. ROTH. Mr. President, I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, I hope we do not get into a semantical debate over national defense. I do not think any Member of this body wants to take any action to jeopardize the security of this Nation. This amendment takes that into account. It says that the majority of the committee, in matters of national security and other programs for valid reasons can close the doors, but it says the presumption should be for openness. That is all. The presumption is for openness.

I can say one thing in defense of what the Senator from Michigan is saying. The delightful thing about this debate is not that we are debating whether or not to have any reform, but what kind of reform; how far open do we go? Well, we are saying, in effect, the presumption should be for openness, that the effort should be to take every step to be sure the people of this Nation know what the Senate is doing.

Of course, it takes a quorum to close the meeting, and why should it not take a quorum? By what logic could we do it any other way?

It also takes a quorum to have an executive session in which to take action. That is not a deviation from the standard.

The effect of this amendment is to do nothing more than place before the American people the record of the Senate in its entirety, to provide a device by which we can conduct our meetings in the interest of national security in executive session, when necessary, but when it is not, to provide the American people total knowledge of what we are doing so they can voice their own opinions. I do not think that is asking too much.

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. CHILES. Mr. President, I am delighted to join the distinguished Senators who have sponsored the amendment, the Senator from Delaware (Mr. ROTH) and others, that would reverse the process and provide that the meetings shall be open unless the majority votes to close them.

The Committee on Rules and Administration adopted a rule that will allow committees to adopt a rule by a majority vote that will allow them to open their meetings in their entirety, if they wish to do so. That is progress. But it is also important how we come out with the precise language on this rule because that is what the public looks at, and they will determine from how we stand on this whether this body stands for closing committees or opening committees. That is really what we come down to when we adopt this rule.

It is important in this day and age when we are trying to restore public confidence in our Government that we come down on the side of opening up meetings when we can. I have listened to the debate and I have heard the argument with respect to national security. As I heard the distinguished Senator from Texas say, every Senator will have to make a speech at every markup to please his constituency. We are saying here we do not trust ourselves to make a decision. I believe that we will have the courage to make a decision when it stands for the security of this country. I hate to think that a man in this body would not vote to close a session when the security of this country is at stake. I would rather say that I trust every Member to make that decision.

I heard the distinguished Senator from New Hampshire talk about what we have to do in appropriation meetings. He said it would be embarrassing to go in there and say, "We have got to add $25 million to the bill because we know we are going to have to have something to trade with the House in conference."

It seems to me that if our markup sessions were open and if the House markup sessions were open, we would not have to worry about trading so we could get our figure in conference. That is one situation we would get rid of. I think the public knows what we do, anyway.

One of the great arguments—and it was a persuasive argument—the distinguished Senator from Louisiana made is that many times it is easier to carry out one's duty as a Senator if he can meet in secret, if he can meet behind closed doors. I think that is probably true. It probably is easier at times.

But what is the trade-off? What are we paying for that? I will tell the Senate what we are paying. We are paying the confidence of the people, what they believe is going on behind closed doors—in many instances not what is going on, but what the public believes is going on.

When we read the polls and find that Congress ranks behind used car dealers with regard to the respect that the public holds for them, then I do not think we can believe that the public believes that what we are doing is correct. They do not trust us, and one reason why they do not trust is the number of closed doors we have here. I think that is a trust we can gain by operating in the open rather than by operating behind closed doors. It is worth paying the price to have that public confidence restored.

Our governmental system depends upon the voluntary consent of the people. But we are having to put a policeman on every street and in every schoolhouse and we are having to put a light in every alley because people are not voluntarily going along. So anything we can do to restore that public confidence must be balanced against the price of what we are paying by not doing it.

What we are talking about here is whether we go one way or the other.

What is the House going to do? I learn that the House is going to vote exactly what is proposed by the amendment. The caucus voted the reverse of what the committee proposed. All meetings would be open unless voted to be closed. Today I understand they are going to adopt the rule which provides that each meeting shall be open unless the majority votes to close it. So the Senate is going to do the exact reverse of what the House did, and the Senate is going to take the brunt of public criticism because the

Senate wants to go the way of secrecy rather than open meetings.

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

Mr. CHILES. Mr. President, will the Senator yield me 2 minutes?

Mr. ROTH. I yield the Senator 2 minutes.

Mr. CHILES. House Resolution 259, which has just been handed to me, has been adopted by the House, and it provides that:

"(f) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public:

That is the action of the House Rules Committee. That is the action of the Democratic caucus. We are going to reverse it. We are going to say, "No, these meetings are going to be closed unless we decide to open them."

The argument about national security has been made here. I have introduced legislation, which affects both the executive as well as the legislative branch, which provides that when matters go into the reputation of people or national security, those meetings will be closed.

I think we have to realize that this body is not for our personal convenience. It is not a place to conduct our business as we would like to conduct it. We have to worry about our country and our constituencies.

I have heard all these same arguments before, it is like a record. I heard it when I was in the Florida legislature. I heard the argument against open meetings there. It was argued that Senators can sit together and work things out better if meetings are not open. But the legislation to open up the system was adopted and it has not worked the way the arguments against it said it would. Once we adopted our sunshine legislation, government went on as usual.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROTH. I yield 2 minutes more to the Senator from Florida.

Mr. CHILES. Mr. President, the Florida Legislature went from, perhaps, 48th in the Nation to where it was rated fourth in the study conducted by the Citizens Committee or Conference on State Legislatures. I believe one of the finest things the Florida Legislature did was to open up its doors in order to restore some public confidence to the work that it was doing.

Yes, committees can adopt that procedure, and the Rules Committee will be applauded. But whether we are going to be open or closed is what the people are looking to. Are we trying to hold secrets? Are we willing to open our hearings? Are we willing to trust ourselves? Do we have something that we want to hold in?

I sat for 2 years in committees in the Senate, the doors were closed every time. But for the life of me, I could never find a reason why they were closed.

I have attended closed meetings of the Senate, and even before we left, everything had been reported by the media. There were no secrets around here. The question is, How is it going to be leaked? I would rather not have a slanted leak; I would rather have some authoritative way to determine what happened than to have some slanted leak. I think we ought to have it understood that we want it known what happens in a committee room or in the Chamber; that we do not operate at our own convenience; that we operate as representatives of the people. If we do that, we have got the confidence of the people. We do not have that now. This is one step. This amendment is a step forward, not a backward step.

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

Mr. CHILES. I yield.

Mr. PASTORE. I do not see anything in what the Senator says that I could disagree with, except the fact that he claims Congress is now in disrepute. I am not ready, after 38 years of public service, to say "mea culpa, mea culpa," on this sixth day of March 1973. I think people respect the individual Members of the Senate. But that is not the question. We are all for open sessions. The Senator from Florida wants them to be open, and then require a vote to close them. The resolution does provide them to be open to the public by vote.

All I am saying is that there is one sensitive area that the amendment does not protect. The minute we begin to vote to close a session, especially one on the defense budget or on nuclear submarines, the suspicion is raised: What are you trying to do?

I am for open hearings, just as much as the Senator from Florida is. All I say is, Vote to open them; the Senator is saying, Vote to close them. What is the big difference? little if any.

Mr. CHILES. I am saying I think it is important how the public thinks we come down on this piece of legislation. When we see the House voting one way, and we come up with another rule that says we are for closed meetings then we will see how the public feels.

I would certainly agree with the Senator from Rhode Island: I think the people have the right to know. But I do not agree with him that the people have great respect for Congress. I do not think they do.

Mr. LONG. Mr. President, something has been said in the debate about the way the public feels about us. I regret that the Senate has declined in the estimate of the public. In my opinion, the number 1 reason is that some persons have been campaigning for votes for their reelection at the expense of the Senate.

I could give the example of former Senator Joe Clark, who wrote a book called "Congress, The Sapless Branch." He could not find anything good to say about Congress.

I can recall when I came to the Senate that everyone here spoke well of the Senate and of their colleagues. But if one reads Joe Clark's book, it leads one to believe that we are a sorry lot. When Senators go around defaming the Senate or some Senator and making remarks as though they think they are worthy and everyone else is unworthy, it obviously hurts this body.

I heard a statement made to the effect that there are no secrets. If any Senator thinks that there are no secrets, it means only that he has not yet had secrets entrusted to him. I have served on committees where a great number of national secrets needed to be kept, and a lot of information has to be entrusted to certain people.

Mr. President, we named the Old Senate Office Building after the late Senator Richard Russell. That man took to his grave with him more secrets than the most of us will ever know. He was a nationally respected man to the very end.

There does come a time certain people come to be entrusted with secrets and those men are chosen for vital missions because of that fact. We should respect the memory of those men who have their portraits in the Reception Room because they had such character.

A Senator should have the courage to do what is required of him, even though it costs him some votes. In the long run, if a Senator does not do this, the people will find him out for what he is. If a Senator chooses not to do this because it will help him temporarily by not doing so, the people will detect that. If one puts his election ahead of what he thinks is to the essential interest of the country, in the long run, it tends to work out to his disadvantage. The people will detect that also.

When I came here, we had a rule which provided that if a Senator spoke of another Senator as being unworthy, he could be put in his seat immediately and would not be permitted to resume unless he was permitted to do so.

We also had a rule that provided that a Senator could not say a word impugning the conduct or motives of any Senator without being subject to being put in his seat by any single Senator. He would not be permitted to continue if he spoke out of order unless the entire Senate voted to permit him to proceed.

I have put Senators in their place and I have been put in my place. This was done whenever someone impugned the motives of some other Senator, or the conduct of the Senate.

We would be far better off if we were to try to do what we believe to be better for this Nation and carefully see to it that when it is necessary for someone to incur the criticism and the scorn of the press and everyone else to protect this Nation's interest by an executive closed meeting, he should not be subjected to any more pressures to do contrary to that which he believes to be necessary under those particular circumstances.

Mr. President, we have a rule that proposes that any time the committee wants to have a open meeting, they will have it. They can make a rule that says they always have open meetings. However, if they, in their consciences, think that it should not be open and that they should vote as they think necessary. It is far better to vote to open the door 50 times than have to vote to close it once.

Mr. CANNON. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President,

as chairman of the Subcommittee on Rules of the Committee on Rules and Administration, I urge the adoption of Senate Resolution 69. I urge that the amendment offered by the distinguished Senator from Delaware be rejected.

On February 1, 1973, the able Senator from Montana (Mr. METCALF), wrote to the chairman of the Committee on Rules and Administration, Mr. CANNON, stating that two standing committees of the Senate had indicated a desire for open sessions for voting and markup of bills and that two other committees were considering the matter.

The able Senator from Montana (Mr. (METCALF) urged that the Committee on Rules and Administration, and particularly the Subcommittee on Rules, of which I am chairman, take immediate action because the matter was urgent to avoid possible parliamentary and legal questions being raised in the future, in view of the fact that the Legislative Reorganization Act in effect provides that no standing committee of the Senate can hold open markup or voting sessions.

The matter was referred to the Subcommittee on Rules, of which I am chairman, and a meeting of the subcommittee was subsequently called, to which Mr. METCALF was invited. As a result of the discussion which took place at that meeting, Senate Resolution 69—an original resolution—was reported by my subcommittee to the full committee, which later reported the resolution without amendment to the Senate. The resolution proposes to amend rule XXV of the standing rules.

The reason for proposing this amendment to the rules is to overcome the existing situation required by section 133 (b) of the Legislative Reorganization Act of 1946, as amended. The section, now a part of the rules of the Senate, provides that meetings for the transaction of business of each standing committee of the Senate shall be open to the public, except: First, during executive sessions for marking up bills, second, or for voting, third, or when the committee by majority vote orders an executive session.

To "except" certain specified sessions from the mandate of "open" meetings can only imply that the excepted sessions are to be closed.

There is no provision made for a vote to open up such closed sessions; therefore, it would appear that under the existing law, a standing committee would be prohibited by Senate mandate from voting to open up sessions for marking up, or voting on, bills.

The purpose of Senate Resolution 69, therefore, is to amend rule XXV of the Senate to add a new proviso that any standing committee, on its own, by majority vote or by committee rule, may order that all or any portion of its meetings, including mark-up and voting sessions, be open to the public.

The change in rule XXV, which would follow from the adoption of Senate Resolution 69, would grant complete autonomy to each standing committee with respect to open and closed executive sessions for voting and for marking up bills and resolutions.

Standing committees are separate legislative entities, and the necessity for holding closed sessions varies among the 17 committees affected. In some committees, more than in others, legislation of a sensitive nature is considered. Foreign relations and armed services matters, for example, often must be discussed in a closed session atmosphere. Appropriations mark-ups—involving hundreds of millions and even billions of dollars—should not be conducted in open sessions, attended by politically powerful pressure groups.

One can imagine the political considerations involved, for example, in marking-up an HEW appropriations bill if, present at the mark-up, are representatives from the many interested special interest groups, lobbyists, and so on.

In the first place, there would be problems of space to accommodate such attendance; moreover, the national interest would all too often be subordinated to the parochial interest of members; furthermore, such mark-up sessions could become forums for grandstanding and political speeches, thus delaying the committee work; and, finally, the power of presence of special interest pressure groups would unduly influence the actions and votes, all too often, of committee members, all to the detriment of the public and the taxpayers at large.

Hence, Mr. President, the resolution reported by the committee does not seek to impose a mandatory open rule on all standing committees, but, rather, leaves the final judgment to each committee. Any committee, whose members wish to proceed with open mark-ups and open voting sessions, can do so, either by a standing rule within such committee or by majority vote on a meeting-to-meeting basis. Otherwise, mark-up and voting sessions would be closed, except when opened by majority vote.

It seems to me that the committee resolution provides for a change in the rules that is fair and reasonable and workable. Personally, I believe that, as a general rule, the public interest is best served when mark-up sessions are closed.

Anyone who is familiar with the necessity of trying to reach agreements and compromises recognizes the difficult situation that would be created if all committee mark-up sessions were required to be open. Time and experience have attested to this. The Legislative Reorganization Act of 1946 made it mandatory that executive sessions for mark-ups and voting be closed. I know of no indication of any requirement for open session mark-ups within committees going all the way back to the convening of the first Senate in 1789. All the indications are quite to the contrary—that the marking-up of bills has been closed, from the earliest days.

Under the Legislative Reorganization Act of 1946, as amended, each standing committee is required to keep a complete record of all committee action which transpires during executive sessions for marking-up bills or for voting, and such record shall include a record of votes on any question on which a record vote is demanded. Moreover, the results of rollcalls taken in any meeting of any standing committee upon any measure are required, under present law, to be announced in the committee report on that measure unless previously announced by the committee, and such announcement must include a tabulation of votes for and against.

The Senate, Mr. President, may I say to my good friend from Florida (Mr. CHILES), that the Senate, unlike the House of Representatives, has no closed rule during floor debate. Ergo, any one of the 100 Senators may offer an amendment to any bill or resolution on the floor of the Senate and he can get a rollcall vote thereon.

Mr. CHILES. Mr. President, will the distinguished Senator yield to me on that point?

Mr. ROBERT C. BYRD. If the Senator will allow me to complete my statement, then I shall be glad to yield.

But the Senate floor is an arena different from that of the committee room. Special interest groups and lobbyists may be in the galleries, but the power of presence is not so greatly felt as it would be in committee rooms, and the interest of the general public has a greater chance of permeating the atmosphere of the Senate Chamber than in the case of open mark-up sessions of committees.

Moreover, Senate floor debate can be better controlled, for example, by unanimous consent agreements. Conversely, open committee mark-ups could lead to endless debate, filibustering within committees, and delay in moving committee work forward.

I am now in my 15th year of service in the Senate, Mr. President. Before coming to the Senate, I had the advantage of serving in the other body for 6 years, and served in both houses of the West Virginia Legislature. Also, may I say to my distinguished friend from Florida, many was the time, when I served in the House of Representatives, that I used to say, "Thank God for the U.S. Senate." However, during my 15 years in the Senate, I have often been obliged to say, "Thank God for the conference committee"—which is commonly referred to as the "Third House."

I recognize the need, Mr. President, for change in our legislative procedures when experience shows that the procedures are in need of change. But not all change is good, nor is all change progressive. The Senate has been in existence 184 years, and its birth long preceded the lives of any of us who are now Members. The Senate started with 19 standing rules, many of which, with but little modification, are still to be found among the 44 standing rules of the Senate today. These rules have withstood the tests of time, experience, and circumstance, and they ought never to be lightly regarded. Nor should they be subject to change except when a clear and unquestionable case can be made for the necessity of such change.

The Senate, as a legislative body, is unique in the history of the world. Its uniqueness and, yes, more importantly, its special place in our system of checks and balances, are founded largely upon its rules and its precedents. To tamper with the rules of the Senate is to tamper

with the Senate itself. Actually, it is somewhat like tampering with that unique document which we call the Constitution. Hence, I devoutly hope that in our mad rush for so-called reform, we do not disserve the public interest by making extreme assaults on Senate procedures which, over the long past, have contributed to stability and efficiency in the operation of the Senate.

The resolution which the Rules Committee has reported to the Senate proposes a change in committee procedures which, as I have already stated, is a reasonable change, and it is one which, in the light of indicated wishes on the part of some of the committees, would appear to be justified. But let us not go too far in our efforts to remake the Senate to conform with what many of us, as individuals, would like to see it become. The Senate is much larger, much greater, and much more important than all of the 100 of us combined. It was meant to be something different and apart, and it ought to continue to be something different and apart, from the House of Representatives or from any State legislative body—in its operations, its procedures, its functions, and its purpose.

Mr. President, the resolution which has been brought to the floor of the Senate today by the Rules Committee does not affect the hearings of any committee. Open hearings are provided for under subsection (b), section 133(A) of the Legislative Reorganization Act. They will continue to be open under the provisions of the Legislative Reorganization Act. Senate Resolution 69 deals only with meetings of standing committees, and permits them to be open for markups and voting.

I therefore submit, Mr. President, that the committee resolution is a reform, if we want to use that term, but I do not think that we should go to the extent that the amendment by the able Senator from Delaware (Mr. ROTH) would have us go, to wit, to require that all committee meetings for markups and voting be open meetings unless a majority of any committee, when a quorum is present, by rollcall vote in open session votes to close the committee meeting for that day only.

I, therefore, urge my colleagues to support Senate Resolution 69 and to reject the amendment proposed by the able Senator from Delaware and others.

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

Mr. ROBERT C. BYRD. I have promised to yield first to the Senator from Florida (Mr. CHILES). Then I shall be happy to yield to the Senator from Georgia.

Mr. CHILES. Mr. President, I compliment the Senator from West Virginia on his fine statement, and I compliment the Rules Committee, again, for the adoption of rules which would allow the committees to open up their meetings.

I have listened with interest to the Senator's remarks that we are not a State legislature and we are not the House of Representatives, and I agree that that is true. I have listened also with interest to the Senator's remarks about the Senate and what it should stand for as a body. I think the Senator has expressed a feeling shared by many of us. Perhaps the junior Senator from Florida has only been here 2 years, and perhaps he cannot have the intensity of love for the Senate that a Senator has who has been here 15 years or much longer; but I can assure the Senator that I think my feelings in this regard are second to none in this body: I yield to no one in my ideal of what the Senate should be and must be to deserve the respect of the people, and what it must be under the Constitution.

There is an adage which I think we must remember here, which is just as true today as when it was first said, that it is not enough that Caesar's wife be pure, but she must have the appearance of being pure. What we are saying here is that it is not enough that we are pure when we have meetings in general, but it is the appearance of purity that is necessary, and it is on that that the people's feeling is going to depend.

My concern today is that the people do not have the respect for the Senate that they should have under our Constitution, for the Senate to be the kind of body it must be and play the kind of role it must play. Therefore, I think it is important that we not adopt a rule whereby the Senate may seek to avoid the light of publicity.

Mr. ROBERT C. BYRD. I thank the Senator for his contribution, and I yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I compliment the Senator from West Virginia on the eloquence of his statement, and I agree entirely with what he says. The public is entitled to know what goes on in the United States Senate. But I ask the Senator, the Legislative Reorganization Act requires that all votes be made public; is that not a fact?

Mr. ROBERT C. BYRD. The Legislative Reorganization Act now requires that a complete record be kept of all committee action, including a record of any votes on which a record vote is demanded, and such rollcall votes are required to be announced in the committee report on any measure unless previously announced by the committee, and such announcement shall include a tabulation of the votes for and against. So the public is protected.

Mr. TALMADGE. Does that not broaden the public's right to know?

Mr. ROBERT C. BYRD. It does.

Mr. TALMADGE. Does the Senator think we could function as effectively were we to adopt the proposal contained in the pending amendment?

Mr. ROBERT C. BYRD. To attempt always to operate under those conditions would encourage demagoguery and delay and would impede the legislative process.

Mr. TALMADGE. Has the Senator not seen many State legislatures demagogued behind closed doors.

Mr. ROBERT C. BYRD. As a former member of both houses of a State legislature, I have indeed.

Mr. TALMADGE. I thank the Senator.

Mr. GRIFFIN. Mr. President, if the Senator from West Virginia will yield, I compliment the Senator for putting this whole subject in historical perspective. He has reminded, the Senate that even the change proposed by the Rules Committee is departing from a rule that goes back to the beginning of the Senate. Those who assume that the public interest cannot be served if meetings are not held in public overlook the fact that when the Founding Fathers met at the Constitutional Convention, the first thing they did was to close the doors. They felt they could do a better job, and in the public interest, by drafting the Constitution of the United States in closed sessions.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Delaware (Mr. ROTH) may have 3 additional minutes in which to close debate, and that I may have 2 additional minutes.

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

Mr. ROBERT C. BYRD. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished Senator from West Virginia for the resolution reported by the Committee on Rules and Administration. I believe that it protects the right of the Senate over committees and leaves with the committees themselves the authority and responsibility as to whether, under certain circumstances, they wish to have open meetings.

Thus, I would hope that the proposal of the Committee on Rules and Administration would be agreed to, because I think it upholds and preserves the best tenets of the Senate, and I would hope that the amendment would be rejected.

I commend the distinguished Senator for a good, logical, sound statement as to the responsibilities of the Senate in matters of this kind. Difficulties may arise in connection with outside sources during the period when a markup is held. The resolution takes that into consideration by leaving the ultimate decision up to each committee.

It is about time the Senate stood on its own feet regardless of what any other body does, in the Congress or in the States.

Once again, I commend the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

Mr. CLARK. Mr. President, I support this amendment. In a single, simple statement, it sets a tone, it provides a direction, it establishes a principle: As a vital part of this democracy, the U.S. Senate is committed to open government. At times, closed committee meetings will be necessary in the interest of national security and personal reputation, but they are to be the exception, not the rule. The importance of this amendment cannot be overestimated, nor can its impact.

Watergate, ITT, secret campaign funds, political bribery—over the last few years, the litany has taken up too many headlines in this country. They represent a growing sense of distrust and suspicion in Government—not only

in what it can do, but in what it is willing to do for the people.

No political party has cornered the market in suspicion or secrecy. There is enough to go around for all. One thing is certain though: People cannot have confidence or trust in a government that operates in private. With its own special vocabulary and arcane procedure, government is complex enough and difficult enough to understand in the open. But no one can understand a closed door.

In the last Congress, nearly four out of every 10 committee meetings were held in executive session. The most important decisions in the legislative process are made in committee. That is where Congress decides how to spend the taxpayer's money—in committee and in secret. It does little to inspire public confidence.

By passing this amendment, the Senate will not erase suspicion and doubt and synicism. But it is a beginning, a very good beginning. Open committee meetings will mean better legislation and better representation. The amendment does not prevent closed meetings, because closed meetings are sometimes necessary. People will understand that. The secrecy will have a compelling reason, but it will not be secrecy for secrecy's sake.

The debate today is especially timely. In the last 2 months, a great deal has been said about the concentration of power in the hands of the Executive—about impoundment, executive privilege, and unbalanced national priorities. At the very core of this "constitutional crisis" is the issue of access to information. Without information, without the ability to question and learn and understand, Congress never will be able to regain its place as an equal branch of Government.

Yet how can we ask for the people's support in this conflict over information, how can we claim to represent them, if we are not willing to let the sunshine in on our own deliberations? How can we expect the people to look to the Senate for leadership if by closed committee sessions we are telling them that not only cannot they take part in the legislative process, they cannot even watch it? This amendment can cure the inconsistency. It can help restore people's confidence in Government.

Nothing we can do in this session of Congress will be more important than that. So much more is at stake than just open committee meetings. A way of government ultimately hangs in the balance. The agenda of unfinished business in this country is awesome, and we will never be able to properly educate our children, or help the poor and the elderly, or clean up the environment, or fight drug abuse unless people have trust and confidence in the men and women they elect to represent them.

Woodrow Wilson once summarized the guiding principle of Government in just four words: "Somebody must be trusted." Before the people can have that trust in Congress, they have to be able to see it work.

Mr. PELL. Mr. President, the amendment before us has the admirable goal of making our legislative processes in the Senate more open and, so its supporters argue, more responsive to the people we represent.

The theory behind this argument is excellent. But I believe the realities of life in the Senate make the situation quite different from the theory.

Mr. President, I know from the experience of the committees on which I serve that the opening of markup sessions to the public would not result in the regular attendance of either the general public or the press. I am afraid that the public would find these long sessions terribly boring and the press would find them inherently lacking in news value.

However, I am not saying that these sessions would be unattended. We would find our meeting rooms crowded with representatives of special interests, including representatives of the executive branch, whose goal throughout the legislative process is to influence our decisions to their advantage. Those who will come will have their special ax to grind and each will make sure he exacts his pound of flesh from the legislator with whom he has an ax to grind.

I believe that we already have ample procedures for listening to their arguments. I do not believe, Mr. President, that these same lobbyists should be given access to the markup sessions in which we try to weigh their arguments with the interests of our constituents and of the genral public and to report out legislation that best serves everyone involved.

Mr. President, I believe our present procedures give the press and the public knowledge of any votes taken during a closed committee meeting. All of our votes during these sessions are recorded and are subsequently available as public records.

So the press has ample opportunity to discover how any Senator voted on any specific portion of a bill and to pass that information along to the public. The fact of the matter from my experience is that the press is too little interested in what happens in these sessions. Seldom do I see press accounts of the votes taken in committee.

I do support the resolution reported out by the Committee on Rules and Administration, on which I serve. This would clear up any ambiguity which exists in the present Senate rule and would clearly allow any committee, either by rule or by majority vote, to open its markup or voting sessions. I can see circumstances in which this action would be desirable and I believe each committee should have the clear option to do so.

SENATOR RANDOLPH SUPPORTS RESOLUTION FOR COMMITTEE RULE CHANGE

Mr. RANDOLPH. Mr. President, I have followed with intense interest the arguments of those who move to amend Senate Resolution 69. On reflection, I find the premise of their argument is not valid. The issue is not secrecy as opposed to openness but, rather, whether committees as agents of this body can properly carry out their functions in marking up legislation. Every Member of this body, even to the newest Members, has already participated in this process.

It is difficult under the best of circumstances, for it involves the accommodation of differing but valid points of view on issues of pending legislation. The freedom to discuss without attribution, to suggest alternative courses of action, to move with the ebb and flow of the discussion and deliberation, is the hallmark of the process. It is in the intensive analysis of issues before a committee that the legislation presented to the Senate as a body is developed.

By no reasonable definition can these meetings be called secret. The results of votes taken are, under the rules of the Senate, made public. The committees, under the rules of the Senate, are required to file detailed reports explaining the provisions of the bills presented. These meetings follow public hearings at which the views of all interested parties are made a part of the RECORD and, most important, all committee members are able to participate.

The success of markup sessions rests on the ability of Members to adjust their views, to accommodate one another so that we may move forward with the business of the public, namely, to establish public policy through legislation. The informality of markup sessions would, I fear under the proposed amendment, give way to formal position taking and create the need for parliamentary rules and procedures which would constrict the freedom of discussion and severely reduce the ability of Members to interact with one another. It would, if adopted, seriously impair the ability of committee staffs to assist Members and result in complications, confusion, and serious misunderstandings.

I now move, Mr. President, to the question of who are the public's representatives. They certainly are not the special-interest groups, however they may style themselves as guardians of the public. The public representatives in markup sessions are the Members of the Senate. They are the only ones who must answer to the public for the action taken. They are the only ones who have an identifiable constituency whose membership is unrestricted, save by the election laws themselves. It is they who are best able to gage what is the public interest in any public issue.

I oppose the amendment because there are no well-reasoned points offered in support of it. While there are problems with the legislative process and while there is need for "reform," let us address ourselves to those areas where the system does not work as well as it should.

I do not agree with the implication that secret deals and improper compromises are the results of our markup sessions. The Senate itself is the final judge of the product of such sessions. I have too much respect for my colleagues and for the hard work which they do to believe that we cannot function without self-appointed watchdogs standing over our shoulders while we engage in the business which the people of our respective States elected us to transact.

It will not be the people of West Virginia, Illinois, Texas, California, or Hawaii who will sit in the committee rooms with us, but a coterie of Washington

representatives, including the administration, all of whom are paid to reflect a point of view at issue. We are being asked by those who propose the amendment to invite into our workroom the special interests who one way or another will directly benefit from, or be directly affected by, the legislation under consideration.

Mr. President, I join in opposition to the amendment and commend my able colleague (Mr. ROBERT C. BYRD), who has presented to the Senate from the Rules Committee a sound resolution and has discussed its merits with insight.

Mr. ROTH. Mr. President, I shall be brief, because I think this question has been well explored. But it is worth while to point out once more that a basic principle of good government is involved and that is the right of the citizen to know what goes on in his Government. I think that is what is at stake here today: Does the citizen and the press have a right to know what is going on as a general rule in every stage of the legislative process?

Basically, what we are talking about is the markup and the voting. I think that the general rule with respect to markup should be to have an open meeting and not a closed one, in contrast to the proposal of the Committee on Rules and Administration, which would have it the general rule that markups be held in executive session. There is a significant difference between the two proposals. In deciding whether to have a closed meeting, my amendment would require that that decision be made in public—open. This is a very important difference from the proposal of the Committee on Rules and Administration which permits the committee to decide in closed session whether they should have open meetings.

There has been a great deal said today about whether my amendment, cosponsored by many Members on both sides of the aisle, is practical and whether it would jeopardize security.

There are two answers to that. First, we do provide for flexibility. We do permit a closed meeting when there is a compelling reason, but we would put the burden on those who would close that meeting rather than on those who would leave it open.

Accordingly our amendment would require all meetings, including markup meetings, to be open except when a majority by a rollcall vote decides to close it.

I should like to point out that while there are great and significant differences between the Senate and the House of Representatives—and I have had the great privilege to serve in both Houses—nevertheless, it is interesting to note that the Rules Committee of the House of Representatives has adopted exactly the same approach that I am talking about.

The bill reported by the House Rules Committee says that each meeting for the transaction of business, including markup of legislation, shall be open to the public except when the committee or subcommittee—and I emphasize this—in open session and with a quorum present, determines by a rollcall vote what part of the remainder of the meeting on that day shall be closed to the public.

I think we could do no less. It would be a sad day, indeed, if we failed to adopt an amendment that, as in my amendment, would provide for full information to the public at large.

I therefore hope, Mr. President, that my amendment will be agreed to.

Mr. ROBERT C. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. Thirty seconds.

Mr. ROBERT C. BYRD. Mr. President, Senators, in voting down the Roth amendment and in voting for the resolution brought out by the Committee on Rules and Administration, will be voting to permit standing committees to hold open meetings for markup and voting sessions, whereas at the present moment it is against the law for any standing committee to hold an open meeting for markup or voting.

Moreover, the resolution reported by the committee would leave it to each standing committee—it provides autonomy—to make the decision on its own—by majority vote or by rule—as to whether markups and voting will be in open session.

Mr. President, I ask unanimous consent, with the concurrence of the able majority leader, the able Republican leader, and all Senators present, that on all rollcall votes today subsequent to the one which is about to occur, there be a time limitation of 10 minutes, with the warning bell to be sounded midway.

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

The question now is on agreeing to the amendment of the Senator from Delaware (Mr. ROTH) No. 23.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The asistant legislative clerk called the roll.

Mr. McCLURE (when his name was called). On this vote I have a pair with the Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. METCALF (after having voted in the negative). On this vote I have a pair with the Senator from Oregon (Mr. PACKWOOD). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. INOUYE (after having voted in negative). On this vote I have a pair with the Senator from Indiana (Mr. BAYH). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. GRAVEL (when his name was called). On this vote I have a pair with the Senator from Mississippi (Mr. STENNIS). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. EAGLETON (after having voted in the affirmative). On this vote I have a pair with the Senator from North Carolina (Mr. ERVIN). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from South Dakota (Mr. ABOUREZK). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Carolina (Mr. ERVIN), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

The respective pairs of the Senator from Oregon (Mr. PACKWOOD) and that of the Senator from South Carolina (Mr. THURMOND) have been previously announced.

The result was announced—yeas 38, nays 47, as follows:

[No. 30 Leg.]

YEAS—38

Bartlett	Gurney	Moss
Beall	Hart	Muskie
Bellmon	Haskell	Nelson
Bentsen	Hatfield	Percy
Biden	Hathaway	Proxmire
Brock	Hollings	Ribicoff
Brooke	Hughes	Roth
Case	Humphrey	Schweiker
Chiles	Johnston	Stafford
Clark	Kennedy	Stevenson
Cook	Mathias	Taft
Cranston	McGovern	Weicker
Dole	Mondale	

NAYS—47

Aiken	Eastland	McIntyre
Allen	Fong	Montoya
Baker	Fulbright	Nunn
Bennett	Goldwater	Pastore
Bible	Griffin	Pearson
Buckley	Hansen	Pell
Burdick	Hartke	Randolph
Byrd, Harry F., Jr.	Helms	Saxbe
	Hruska	Scott, Pa.
Byrd, Robert C.	Huddleston	Scott, Va.
Cannon	Jackson	Sparkman
Church	Javits	Stevens
Cotton	Long	Symington
Curtis	Magnuson	Talmadge
Domenici	McClellan	Tower
Dominick	McGee	Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—6

McClure, for.
Metcalf, against.
Inouye, against.
Gravel, for.
Eagleton, for.
Mansfield, against.

NOT VOTING—9

Abourezk	Fannin	Thurmond
Bayh	Packwood	Tunney
Ervin	Stennis	Williams

So Mr. ROTH's amendment was rejected.

Mr. CANNON. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Vermont Royster which bears on the subject under discussion. It was published in the Wall Street Journal on February 14, 1973.

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

"SECRECY" AND ALL OF THAT

(By Vermont Royster)

One of the first chores of the new 93rd Congress, which began in January, was to organize itself—choose a Speaker, President pro-tem of the Senate, majority and minority leaders, and assign members to the various committees where the real work gets done.

That last chore is especially important, and very touchy. It makes a bit of difference in the legislative process who gets assigned to what committee, and it has a lot to do with a new member's prestige and influence. A situation ready-made for acrimonious infighting.

This year, as usual, it was all done in secrecy. In the House, where the problem of divvying up committees is more acute because of the numbers, each party has a Committee on Committees. It, in turn, has a smaller subcommittee which does the actual work of assignment. And both the Committees on Committees and the subcommittees of the committees work behind closed doors.

Since this is the way it's always been done, and on the whole has worked pretty well, it might not be worth remarking upon except for the loud clamor in Congress against secrecy in government, especially the clamor from Democrats right now against a Republican administration. The issue of "the people's right to know" is one which the news media, too, usually make much of, except when they're talking about "shield" laws to give reporters the right to decide what the people have no right to know.

But since Congress here makes an exception to its grand principle, and press criticism of it has been oddly muted, perhaps the example may serve for a closer look at this whole question of secret versus open processes in government as they affect good government, and so the public interest.

First off, it might be noted that open covenants secretly arrived at are nothing new in our Republic, a process not always decried either. When the Constitutional Convention met in Philadelphia to draw our charter for liberty, the first thing the Founding Fathers did was to close their sessions to press and public. We have only a few diary notes, especially those of Madison, as to who said what on what issue while the issue was in doubt.

The final covenant, the Constitution itself, was of course made public for the people to judge. But Benjamin Franklin, surely no foe of liberty or a free press, even urged the delegates to keep their debating differences secret after the event.

"If every one of us," he said at the last session, "were to report the objections he has had to it, and endeavor to gain partisans in support of them, we might prevent it being generally received and thereby lose all the salutary effects & great advantages. . . ."

A little browsing through the record shows that Congress has often seen virtues in "secret" discussions. In the past ten years the Senate has held closed sessions at least six times; in 1963 to discuss missile defenses, in 1966 to talk about the CIA, in 1969 to discuss the matter of Laos and Cambodia, to mention a few.

In the House any committee is *required* to close its sessions when dealing with some matters, as for example information which "may tend to defame, degrade or incriminate any person."

So we begin then with a recognition that some "secrecy" in the governmental process has not been universally condemned. Or, perhaps a better way of putting it, some privacy in the discussion that leads to decisions is useful to the public interest where what is sought are candid opinions uninfluenced by fears of how those opinions might be received in the glare of publicity.

The principle is often applicable whether the meeting be of a congressional committee, a President's Cabinet or of a local board of aldermen. What useful purpose would have been served by forcing Kissinger and Tho, in the name of the people's right to know, to hold their talks before scribbling reporters and the TV camera? Could they then have gotten an agreement?

Nor is this the whole of the matter. There are other instances when it is dubious whether total publicity serves the public interest. "Open records" are not necessarily a universal public good either. In many defense matters, obviously. There are many reports in governmental files, including income tax and personnel records, the casual broadcast of which could do private injury and, so doing, ill serve the public interest.

Yet for all of that it remains true that in a free society the public business must ultimately be open to the public scrutiny and public judgment. The issue of "secrecy in government" does not vanish simply because reasonable men have recognized, at diverse times for diverse causes, that some reserve contributes to the public business.

The problem is to decide which is which. And if that is sometimes difficult, whoever promised that ordering a free society would be easy?

One possible distinction, of course, is among the hearing, deliberation and decision processes. The hearing process, whether formal or informal, is that by which the public makes known its opinion, whether on war or peace or where to build a new highway or whether an accused is guilty. It can never be circumscribed or held in camera without grave injury.

Nor can the decision process. The public must know not only what was decided (no secret agreements, foreign or domestic) but who decided it. The roll must be called in Congress, the jury polled, the President stand up publicly to be counted.

It's in the process leading to decision, the deliberative process, that matters aren't so simple. It's all very well to say Congress should publicly debate questions before it, but the practical effect is to drive the deliberative process from the floor to the committee rooms, cloak rooms and corridors. There, in privacy, the members can discuss with candor, change their views without embarrassment, speak without the burden of defending partisan views, untempted to play to the gallery. No one expects a jury to deliberate in a packed town hall.

So there are, take it all in all, some occasions where privacy—secrecy, if you will—serves the governmental process better than the full glare of publicity. It's not a very remarkable thought, and would hardly be worth remarking except for the present clamor that those who serve us always serve us ill, no matter what the circumstances, if they close the door of the council chamber.

Anyway, those Founding Fathers, so revered in other matters, thought to conduct some affairs in "secrecy" and still gave us a pretty good government.

Mr. TAFT. Mr. President, today I had considered proposing an amendment to Senate Resolution 69 to provide that all meetings of Senate committees and subcommittees be opened to the public unless a committee or subcommittee, by rule or majority vote, determines otherwise.

The amendment already offered by the senior Senator from Delaware would place the burden of closing any meeting on those who desire it to be closed. I agree with this approach wholeheartedly. If the Senate really believes, as I do, that its business should be conducted in public rather than behind closed doors, then we should take affirmative action to achieve this rather than simply allowing it to happen if a committee or subcommittee so desires.

Nevertheless, I realize that some procedural difficulties could be caused by the Roth amendment. For example, when the Committee on Banking, Housing and Urban Affairs, of which I am a member, discussed this issue, we agreed that markup sessions at which materials which could have a major effect on the international money markets or the stock market will be discussed, could properly be closed. If the only way to close such a meeting would be by a rollcall vote on the same day, however, there might be no way to discuss such materials without the adverse effects. The mere act of closing, or attempting to close, a meeting, could set off the speculative activity that we would be seeking to avoid.

The committee also decided that there are certain types of situations, including discussions of the personal qualifications of nominees seeking to be confirmed and of matters involving proprietary business information, which always demand closed sessions. I doubt whether it is desirable to forbid committee rules closing such types of markups, and thereby subjecting each case to the determination of a majority of the committee with the public present. The political circumstances may make it very difficult to obtain a majority vote, even when the markup session should really be closed.

The amendment which I would have preferred would take care of these problems, while retaining the proposition basic to the Roth amendment that the burden must be on those who seek to close, rather than open, committee sessions.

The Roth amendment, however, might be jeopardized by another amendment at this time. I believe that the approach it takes is far preferable to the approach taken in Senate Resolution 69, and I, therefore, urge the adoption of the Roth amendment. Even if it fails, the committee resolution will be a step forward.

The PRESIDING OFFICER. The question now occurs on the adoption of the resolution.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. 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 Indiana (Mr. BAYH), the Senator from North Carolina (Mr. ERVIN), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I further announce that the Senator

from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from North Carolina (Mr. ERVIN), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Mississippi (Mr. STENNIS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 91, nays 0, as follows:

[No. 31 Leg.]

YEAS—91

Aiken	Fong	McIntyre
Allen	Fulbright	Metcalf
Baker	Goldwater	Mondale
Bartlett	Gravel	Montoya
Beall	Griffin	Moss
Bellmon	Gurney	Muskie
Bennett	Hansen	Nelson
Bentsen	Hart	Nunn
Bible	Hartke	Pastore
Biden	Haskell	Pearson
Brock	Hatfield	Pell
Brooke	Hathaway	Percy
Buckley	Helms	Proxmire
Burdick	Hollings	Randolph
Byrd, Harry F., Jr.	Hruska	Ribicoff
	Huddleston	Roth
Byrd, Robert C.	Hughes	Saxbe
Cannon	Humphrey	Schweiker
Case	Inouye	Scott, Pa.
Chiles	Jackson	Scott, Va.
Church	Javits	Sparkman
Clark	Johnston	Stafford
Cook	Kennedy	Stevens
Cotton	Long	Stevenson
Cranston	Magnuson	Symington
Curtis	Mansfield	Taft
Dole	Mathias	Talmadge
Domenici	McClellan	Tower
Dominick	McClure	Weicker
Eagleton	McGee	Young
Eastland	McGovern	

NAYS—0

NOT VOTING—9

Abourezk	Fannin	Thurmond
Bayh	Packwood	Tunney
Ervin	Stennis	Williams

So the resolution (S. Res. 69) was agreed to, as follows:

S. RES. 69

Resolution to amend rule XXV relative to open and closed sessions of commttees

Resolved, To amend rule XXV, section 7, as follows:

After the number "7.", insert (a).

At the end of the paragraph, insert a new section (b) as follows:

"(b) Meetings for the transaction of business of each standing committee of the Senate, other than for the conduct of hearings (which are provided for in section 112(a) of the Legislative Reorganizaton Act of 1970), shall be open to the public except during closed sessions for marking up bills or for voting or when the committee by majority vote orders a closed session: *Provided*, That any such closed session may be open to the public if the committee by rule or by majority vote so determines."

FEDERAL NO FAULT INSURANCE

Mr. MAGNUSON. Mr. President, during the next several months, many State legislatures will be considering various proposals to reform their automobile compensation systems. Jockeying in the Utah Legislature is taking its place at this moment. It has prompted the editors of the Salt Lake Tribune to offer some sage advice to the Utah Legislature which other State legislatures might well heed. The editors of the Tribune said, in part, that—

Since it appears that some type of no-fault insurance will come out of this session of the legislature, it is imperative that it be modeled on proposals for a Federal No-Fault law. By anticipating the federal legislation, Utah will be guaranteed a genuine no-fault plan even if Congress again fumbles the ball, and if Congress acts, as many expect it to, then Utahans, with a law already up to federal standards, will be spared considerable confusion and uncertainty.

Mr. President, I ask unanimous consent that the text of the editorial appearing in the February 16, 1973, Salt Lake Tribune be printed in the RECORD at this point.

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

LEGISLATURE SHOULD ANTICIPATE FEDERAL NO-FAULT INSURANCE

At the very least Congress should set no-fault automobile insurance standards that all states must meet.

As jockeying over three no-fault proposals before the Utah Legislature shows, the states are being subjected to intense local pressures from competing special interest groups. The trial lawyers, parts of the insurance industry and consumer interests are lobbying strongly for their particular version of no-fault. The public interest is bound to suffer.

Congress is not immune to similar pressures. But being further removed from the threats that pressure groups employ, Congress is better able to conceive and implement a fair no-fault law which the states can then enlarge upon if they desire.

No-fault insurance limits—and, in its "purest" form, eliminates—lawsuits to recover damages in auto accidents since it is not necessary to determine who was at fault. Instead, each victim's insurance company pays its client's losses and medical bills.

Of the several bills before the Utah Legislature, the consumers' bill is the most nearly "pure."

An adequate plan must make auto insurance compulsory for all drivers and vehicles. It must guarantee a reasonable reduction in bodily injury insurance premiums; it should require full payment for all necessary medical expenses incurred in an auto accident no matter who is at fault. Further, the ideal plan must provide adequate compensation for lost income or, in the case of non-earners, lost services.

So-called "pain and suffering" lawsuits should be prohibited except in cases of broken bones or when medical bills (exclusive of hospital and diagnostic costs) exceed a reasonable figure, a figure that takes into account the high cost of modern medical care.

Since it appears that some type of no-fault insurance will come out of this session of the Legislature, it is imperative that it be modeled on proposals for a federal no-fault law. By anticipating the federal legislation Utah will be guaranteed a genuine no-fault plan even if Congress again fumbles the ball. And if Congress acts, as many expect it to, then Utahans, with a law already up to federal standards, will be spared considerable confusion and uncertainty.

The fact that the three bills now before the Legislature have picked up labels—lawyers' bill, insurance companies' bill, consumers' bill—should be sufficient warning that each is essentially a special interest bill. What is needed is a no-fault plan that is directed at the overall public interest.

ADDRESS BY SENATOR JACKSON ON ACCEPTANCE OF "THE MINUTEMAN OF THE YEAR" AWARD OF THE RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES, FEBRUARY 16, 1973

Mr. MAGNUSON. Mr. President, on the evening of February 16, the Reserve Officers of the United States honored my colleague (Mr. JACKSON) with its annual Minuteman Award for the great record he has made as a champion of national security programs.

This was a most outstanding affair attended by some 2,000 officers and their ladies from the military services, Reserve and Regular, from throughout the United States.

The various tributes to Senator JACKSON, together with his address in response, are submitted for the RECORD in order that his colleagues may be aware of the great honor which has been conferred upon him, and which, we will all agree, he so richly merits. I ask unanimous consent to have them printed in the RECORD.

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

INTRODUCTION OF SENATOR HENRY JACKSON BY CONGRESSMAN BOB SIKES, RESERVE OFFICERS' ASSOCIATION BANQUET, FEBRUARY 16, 1973

Colonel Harry S Truman, reservist and 33d President of the United States, was a charter member of ROA. He was a strong and courageous yet a humble President who did not duck the issues, and they were heavy. Here was a man—A great man. We took pride in him. We understood him. We valued his leadership. He was one of the heroes of ROA. But he was President for all the nation.

The man we honor tonight is cast in the Truman mold. In 32 years in the House and in the Senate, he has exemplified sound and outstanding leadership in a nation which is committed to peace through preparedness. He has worked diligently for international understanding, but he has insisted that the United States always be in position to negotiate from strength.

He knows the Reserves are a key part of national security and he supports programs to insure strong Reserve components.

It was he who had the courage to question the wisdom of giving Russia a clear advantage in modern weapons as the price of an agreement on the SALT talks, and that is what the SALT agreement does. It was he who successfully fought for an amendment to the SALT agreement requiring that in SALT II, the follow-on talks, our objective is to achieve equality or parity in modern weapons. That fight took six long weeks, but he refused to abandon this very important goal and he won.

His calm and courageous voice has been needed in a land where discord and demonstrations have so often claimed the headlines and displaced reason. This man has not been afraid to warn of the danger which awaits America if our preparedness is weakened to the point that we dare not risk a confrontation with the Communist powers of the world.

Henry Jackson is a devoted family man. Like Harry S Truman, he is cast in the mold of leadership and America needs leaders—leaders who are strong and fearless.

The recognition which ROA accords Scoop Jackson tonight may be prophetic of the recognition which the nation will accord him in a future year. He has achieved great-

ness in the nation's highest councils. He is respected on both sides of the political aisle. Here is a man who could have been Secretary of Defense, one of the most prestigious positions in the nation, but he felt that he could best serve by staying in the Senate which he has done with constantly increasing vote getting. He led the nation in the last election. With that record and that kind of leadership, he may well be destined for the highest post in the land.

I think I know the qualities which make a man great. I have introduced great men in this audience. I know that I am introducing a great man tonight. As a reservist and member of ROA for many years, it gives me pride—and I am confident it gives ROA pride—that tonight a new leader among great Americans joins the heroes of ROA.

Now let me read the citation which tells the story of tonight's ceremony:

(Read the citation).

I am very happy to be privileged to introduce ROA's newest hero, the Honorable Henry M. Jackson.

The following telegram expressing congratulations to Senator JACKSON was received from President Richard Nixon:

It is a pleasure to join with the members of the Reserve Officers Association in tribute to Scoop Jackson.

Fellow citizens everywhere share your appreciation and recognize in his service an exemplary devotion to the public trust he holds.

My warmest congratulations go out to Scoop and all who attend your dinner.

RICHARD NIXON.

REMARKS BY SENATOR HENRY M. JACKSON ON ACCEPTANCE OF "THE MINUTE MAN OF THE YEAR" AWARD

I am honored to have been chosen as this year's recipient of your "Minute Man of the Year" award. The list of previous recipients is a distinguished one. Many of the designees were Senators and Congressmen—great leaders like Richard Russell, Carl Vinson, and Speakers McCormack and Albert—and I am proud to have served with them and to have had them for friends.

When I first came to the Congress more than thirty years ago, our country was on the verge of the greatest foreign crisis in its history. It was a time when outstanding leadership was required. It was the time when a tradition of bipartisan support for the nation's foreign policy began.

We need some of that spirit today.

The tradition of country over party, of nation over personal political interest, has never had a greater exemplar than Senator John Stennis. I know you join me in praying for his speedy recovery. The United States needs his courage and his wise counsel. We need him back in the Senate.

Tonight, I want to discuss with you the continuing need for resolution in the management of our nation's foreign and defense policies.

The war in Vietnam may be coming to an end, but the end of that war will by no means solve our security problems. Indeed, if the end of that war becomes a cause for complacency, the fragile peace we now enjoy will certainly be shattered.

It is an unhappy fact of history that our nation's record for postwar eras is not very impressive. After World War I, we allowed our foreign and defense policies to lapse into a sterile and uninformed isolationism. After World War II, we did not merely demobilize our armed forces, we nearly dismantled them. We were dangerously unprepared for the challenge of Soviet expansionism. After Korea, we passed through several years when we were more interested in an economical defense than a broadly-based one.

Indeed, because our fundamental strategic and foreign policies were based on the assumption that overwhelming U.S. nuclear superiority would be maintained indefinitely, we thought we could pay less attention to other aspects of military preparedness.

Now, in another postwar era, when we clearly do not have nuclear superiority, we must reformulate national strategy and develop military forces to implement it.

We must not allow this post-Vietnam era to become a time of complacency and sloth.

(1) In the past decade, there have been deep differences and bitter disagreements about foreign and defense policy, and the legacy of this period cannot help but make it harder to deal with our problems objectively. The strain on our military institutions has been particularly severe.

In many Americans' minds, the difficulties we had in Vietnam came to be associated wtih some presumed flaws in the American military system. The military was criticized for discipline that was either too strict or too lax—depending on the cases; for failure to solve problems of race relations—though the military's record in this area is far better than other segments of our society; for failure to win the war in Vietnam—though it was not the business of our professional military to define our war aims in Vietnam.

I sometimes think that it is the very dedication of our military services which makes them this sort of scapegoat—for even the harshest critics of our armed services seem to know that the man in uniform will endure it all, yet still remain willing to serve his country.

(2) We have yet to firm up a guiding strategic doctrine which takes account of the vast increase in Soviet strategic power and its implications for Western security.

On the one hand, the SALT agreements—and especially the ABM treaty—seemed based on a doctrine which holds that U.S. strategic forces have no role other than destroying the Russian population in the event of an all-out nuclear attack on the United States. On the other hand, the "Nixon Doctrine", the four criteria of "strategic sufficiency" as spelled out by the Defense Department, and other Administration statements suggest that we are still interested in extending strategic deterrence to our allies and in preventing the nuclear blackmail of our allies by third parties.

Now, I do not wish to suggest that it will be easy to resolve these doctrinal inconsistencies. But I am sure you see why we better come to grips with this problem.

(3) Important as strategic forces are to the safety of the nation, they represent but 10% of the total defense budget. The nature and size of our general purpose forces should also be of concern to us.

Here, too, there are disturbing indications that, within the government, there is not yet a clear picture of where the nation should go, what kinds of forces the nation should have, and what foreign policy objectives these forces should support.

As a result of the transition to an all volunteer force, we find that soaring manpower costs have placed a serious squeeze on the defense budget. An urgent problem facing our military, therefore, is the design of forces that will utilize manpower more efficiently.

Indeed, as the cost of weapons and military construction continues to rise, the armed services will be under severe pressure to cut their manpower requirements to the bone.

Here the reserves will play a crucial role. For I expect that the higher cost of manpower will cause us to rely more upon our mobilization potential and less on our forces-in-being. If this turns out to be so, we will need a corps of highly professional reserve officers, officers who have kept up to date not only with the latest military concerns, but with what is happening in our society as a whole.

In the meantime, you can be sure that political pressures directed against the stationing of troops in Europe will continue to mount.

Under this set of circumstances, it may be very tempting to solve our pressing budgetary problems at the expense of our larger political and foreign policy interests.

Frankly, I am very concerned by the prospect. In my view, the first round of the SALT talks established a bad precedent. For, when faced with a seriously deteriorating strategic balance, we looked to negotiations with the Soviets to solve the problem for us. The result was a series of damaging negotiating concessions in the hope that Moscow would somehow help alleviate our difficulties. In fact, the Soviets have continued the rapid buildup of their strategic forces.

It seems to me that similar hopes—or, more appropriately, similar wishful thinking—may come to govern our approach to the Soviet-American negotiations on conventional force reductions in Europe. As budgetary and other pressures mount, corrosive diplomatic concessions may appear to some to be the only way out—but this could well undercut both American influence in Western Europe and Western European security itself.

(4) Relations among the great powers of the world are far different from what they were just ten years ago. Indeed, we have reached a point where there is a genuine triangular relationship between Moscow, Peking, and Washington, where any two sides of the triangle can vitally affect the third.

I have suggested that we cannot give the Soviets an unfair advantage in this diplomatic contest by failing to put our relations with Peking on the customary Ambassadorial level. I think we can do this without prejudice to the future of the people on Taiwan.

However, in no sense should we approach negotiations with China or the Soviets with a sense of weakness. We still have great resources that can be brought to bear in the realm of international politics. Not the least of these are our scientific, technological, industrial, and managerial capabilities which are the envy of the world—and to which the Communist nations need access if they are to modernize their stagnating societies.

In short, we must prepare for a period of tough bargaining over trade, over freedom to emigrate, over cultural and personal exchange, over arms control and security questions—remembering all the time that a credible defense posture will be vital to the success of any of these diplomatic undertakings.

Our military establishment has come a long way since the days of the Minuteman, today the symbol of preparedness and vigilance. As much as the world has changed since the American revolution, and as complicated as diplomatic and military affairs have become, we need something of the spirit of the dedicated citizen—the man of peace prepared to come to the country's defense. Millions of Americans belong to that tradition, and with the understanding that I am but one of them, I am grateful for the honor you have given me tonight.

APPOINTMENT OF ADVISER TO MEETING OF THE UNITED NATIONS COMMITTEE ON PEACEFUL USES OF SEABED

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The Chair, on behalf of the President of the Senate, appoints Mr. STEVENS as adviser to the meeting of the United Nations Committee on Peaceful Uses of the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction to be held in New York March 10 to April 6, 1973, and at Geneva, Swtizerland, July 2 to August 24, 1973.

THE VETERANS HEALTH CARE EXPANSION ACT OF 1973

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Senate will now proceed to the consideration of Senate bill 59, which the clerk will state by title.

The assistant legislative clerk read the bill by title, as follows:

A bill to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery.

The Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with amendments on page 8, line 6, after the word "amended", strike out "by—"; at the beginning of line 7, strike out:

"(1) adding at the end thereof the following new subsection (d):"

And insert: "by adding at the end thereof the following new subsection (d):".

After line 23, insert a new section, as follows:

SEC. 105. (a) Section 624 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Administrator may furnish nursing home care, on the same terms and conditions set forth in section 620(a) of this title and at the same rate as specified in section 632(a)(4) of this title, to any veteran who has been furnished hospital care in the Philippines pursuant to this section, but who requires a protracted period of nursing home care."

(b) The catchline at the beginning of Section 624 of such title is amended to read as follows:

On page 9, after line 10, insert:

"§ 624. Hospital care, medical services and nursing home care abroad."

At the beginning of line 13, change the section number from "105" to "106"; at the beginning of line 18, change "629" to "626"; in the same line, after the word "of", strike out "personnel" and insert "personal"; at the beginning of line 20, change the section number from "106" to "107"; on page 11, line 14, after the word "amended", insert "(1)"; at the beginning of line 18, change the section number from "107" to "108"; on page 12, line 8, after the word "hospital", strike out "and medical care" and insert "care, medical services and nursing home care"; in line 16, after "July 1,", strike out "1972" and insert "1973"; in line 17, after the word "the", strike out "United States" and insert "United States—"; in line 21, after the word "in", strike out "Veterans' Administration facilities" and insert "the Veterans Memorial Hospital"; on page 13, line 1, after the word "veterans", insert "and new Philippine Scouts"; in line 6, after the word "Army", strike out "veterans" and insert "veterans, and for new Philippine Scouts if they enlisted before July 4, 1946,"; after line 11, strike out:

"(3) will pay for hospital care, determined by the Administrator to be necessary, at the Veterans Memorial Hospital for new Philippine Scouts for service-connected disabilities and for non-service-connected disabilities, if they enlisted before July 4, 1946, and if they are unable to defray the expenses of necessary hospital care;

"(4) will pay for medical services for new Philippine Scouts determined by the Administrator to be in need thereof for service-connected disabilities as authorized for Commonwealth Army veterans in clause (1) of this subsection;

At the beginning of line 23, strike out "(5)" and insert "(3)"; in line 25, after the word "veterans", insert "and new "(5)" and insert "(3)"; in line 25, after line 2, insert:

"(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of this title, for any Commonwealth Army veteran or new Philippine Scout determined to need such care at a per diem rate not to exceed 50 per centum of the hospital per diem rate established pursuant to clause (6) of this subsection;

At the beginning of line 10, strike out "(6)" and insert "(5)"; in line 12, after the word "veterans", insert "and new Philippine Scouts"; at the beginning of line 17, strike out "Administrator. The Administrator" and insert "Administrator; and"; at the beginning of line 23, strike out "(7)" and insert "(6)"; and, in the same line, after the amendment just stated, strike out "may" and insert "will"; on page 15, at the beginning of line 3, strike out "(8)" and insert "(7)"; in line 11, after the word "one", insert "such"; in the same line, after "July 1.", strike out "1978." and insert "1978, which shall include an amount not to exceed $250,000 for any one such fiscal year for the purposes of clause (4) of such subsection."; in line 19, after the word "veterans", insert "or new Philippine Scouts"; on line 24, after the word "veterans", insert "or new Philippine Scouts"; on page 16, line 11, after the word "personnel", strike out "at the" and insert "who are assigned to such"; in line 22, after the word "grants.", insert "Any appropriation made for carrying out the purposes of clause (2) of this subsection shall remain available until expended."; on page 17, in the material following line 5, in the line starting "632.", after the word "hospital", strike out "and medical care." and insert "care, medical services and nursing home care."; at the beginning of line 18, change the section number from "108" to "109"; on page 20, line 23, after the word "the", strike out "Administrator" and insert "Comptroller General of the United States"; on page 21, line 11, after the word "Administrator", insert "shall cooperate fully with the Comptroller General and"; in line 14, after the word "The", strike out "Administrator" and insert "Comptroller General"; on page 24, line 7, after the word "to", strike out "$34,171" and insert "$34,971"; on page 26, line 13, after the word "of", strike out "intermediate" and insert "Intermediate"; on page 27, at the beginning of line 23, strike out "Se3." and insert "Sec."; on page 32, line 5, after the word "subsection", strike out "a new paragraph as follows" and insert "the following new paragraphs"; after line 6, insert:

"(2) For the purposes of this title, the term 'intern' shall include an internship or the equivalency thereof, as determined in accordance with regulations which the Administrator shall prescribe.

At the beginning of line 11, strike out "(2)" and insert "(3)"; on page 37, line 21, after the word "Administration", strike out "hospitals, nor maintain" and insert "hospitals or"; in line 23, after the word "fiscal", strike out "year." and insert "year, nor maintain such a census of less than 82,000 in any such fiscal year."; on page 43, line 1, strike out "TITE" and insert "TITLE"; in line 4, after the word "sections", strike out "105" and insert "106"; and, in the same line, after the word "and", strike out "106" and insert "107"; so as to make the bill read:

S. 59

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 Health Care Expansion Act of 1973".

TITLE I—HOSPITAL, DOMICILIARY, AND MEDICAL CARE BENEFITS

SEC. 101. (a) Subparagraph (C) of section 601(4) of title 38, United States Code, is amended to read as follows:

"(C) private facilities for which the Administrator contracts in order to provide (i) hospital care or medical services for persons suffering from service-connected disabilities or from disabilities for which such persons were discharged or released from the active military, naval, or air service; (ii) hospital care for women veterans; (iii) hospital care for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, except that the annually determined average hospital patient load per thousand veteran population hospitalized at Veterans' Administration expense in Government and private facilities in each such noncontiguous State may not exceed the average patient load per thousand veteran population hospitalized by the Veterans' Administration within the forty-eight contiguous States; but authority under this clause (iii) shall expire on December 31, 1978; or (iv) hospital care, where appropriate facilities defined in clauses (A) and (B) are not available, for the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and the widow or child of a veteran who died as a result of a service-connected disability."

(b) Section 601(5) of such title is amended to read as follows:

"(5) The term 'hospital care' includes—

"(A)(i) medical services rendered in the course of the hospitalization of any veteran, and (ii) transportation and incidental expenses for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation;

"(B) such mental health services, consultation, professional counseling, and training (including (i) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving care for a service-connected disability or in the case of a dependent or survivor of a veteran under the terms and conditions set forth in section 111 of this title) of the members of the immediate family (including legal guardians) of a veteran or a dependent or survivor of a veteran, or, in the case of a veteran or dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such veteran, or a dependent or survivor certifies his intention

to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or a dependent or a survivor of a veteran; and

"(C) (i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran, and (ii) transportation and incidental expenses for a dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation."

(c) Section 601(6) of such title is amended by inserting immediately after "treatment," the following: "such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran,".

SEC. 102. Section 610 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "or nursing home care" immediately after "hospital care" where it first appears;

(2) striking out clause (1)(B) of subsection (a) and inserting in lieu thereof the following:

"(B) any veteran for a non-service-connected disability if he is unable to defray the expenses of necessary hospital care;".

(3) amending subsection (c) to read as follows:

"(c) While any veteran is receiving hospital care or nursing home care in any Veterans' Administration facility, the Administrator may, within the limits of Veterans' Administration facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which he is hospitalized, if the veteran is willing, and the Administrator finds such services to be reasonably necessary to protect the health of such veteran."; and

(4) adding at the end thereof the following new subsections:

"(d) The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care to the following individuals, in accordance with such regulations as he shall prescribe, to the extent that the provision of such care does not interfere with the furnishing of hospital and domiciliary care under subsections (a) and (b) of this section:

"(1) the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability; and

"(2) the widow or child of a veteran who died as the result of a service-connected disability.

"(e) In no case may nursing home care be furnished in a hospital not under the direct and exclusive jurisdiction of the Administrator except as provided in section 620 of this title."

SEC. 103. Subsection (f) of section 612 of title 38, United States Code, is amended to read as follows:

"(f) The Administrator may also furnish medical services for any disability on an outpatient or ambulatory basis—

"(1) to any person eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in perparation for, or to obviate the need of, hospital admission, or (B) where such a person has been granted hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care; and

"(2) to any veteran who has a service-connected disability rated at 80 per centum or more."

SEC. 104. (a) The first sentence of subsection (a) of section 620 of title 38, United States Code, is amended by redesignating clauses (1) and (2) as clauses (i) and (ii), respectively; by striking out "veteran" in redesignated clause (i) and inserting "person"; and by amending that portion preceding such clauses to read as follows:

"(a) Subject to subsection (b) of this section, the Administrator may transfer—

"(1) any person who has been furnished care by the Administrator in a hospital under the direct and exclusive jurisdiction of the Administrator, and

"(2) any person (A) who has been furnished care in any hospital of any of the Armed Forces, (B) who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nursing home care, and (C) who upon discharge therefrom will become a veteran

to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care, for care at the expense of the United States, only if the Administrator determines that—".

(b) The second sentence of section 620(a) of such title is amended by striking out the designations (A) and (B) and inserting in lieu thereof (I) and (II), respectively; and by striking out "veteran" wherever it appears in such sentence and inserting in lieu thereof "person".

(c) Section 620(b) of such title is amended by (1) striking out "veteran" and inserting in lieu thereof "person"; (2) by adding "or admitted" after "transferred" and (3) by adding at the end thereof the following: "The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Administrator shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.".

(d) Section 620 of such title is further amended by adding at the end thereof the following new subsection (d):

"(d) Subject to subsection (b) of this section, the Administrator may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care. Such admission may be authorized upon determination of need therefor by a physician employed by the Veterans' Administration or, in areas where no such physician is available, carrying out such function under contract or fee arrangement based on an examination by such physician. The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section."

SEC. 105. (a) Section 624 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Administrator may furnish nursing home care, on the same terms and conditions set forth in section 620(a) of this title and at the same rate as specified in section 632(a)(4) of this title, to any veteran who has been furnished hospital care in the Philippines pursuant to this section, but who requires a protracted period of nursing home care."

(b) The catchline at the beginning of Section 624 of such title is amended to read as follows:

"§ 624. Hospital care, medical services and nursing home care abroad."

SEC. 106. (a) Section 626 of title 38, United States Code, is amended by striking out "fire" and inserting in lieu thereof "fire, earthquake, or other natural disaster".

(b) The catchline at the beginning of section 626 of such title is amended to read as follows:

"§ 626. Reimbursement for loss of personal effects by natural disaster"

SEC. 107. (a) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 628. Reimbursement of certain medical expenses

"(a) The Administrator may, under such regulations as he shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including necessary travel), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

"(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

"(2) such care or services were rendered to a veteran in need thereof (A) or an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible his entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

"(3) Veterans' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

"(b) In any case where reimbursement would be in order under subsection (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

"(1) to the hospital or other health facility furnishing the care or service; or

"(2) to the person or organization making such expenditure on behalf of such veteran."

(b) The table of sections at the beginning of such chapter is amended (1) by deleting

"624. Hospital care and medical services abroad."

and inserting in lieu thereof

"624. Hospital care, medical services and nursing home care abroad."

and (2) by deleting

"626. Reimbursement for loss of personal effects by fire.

"627. Persons eligible under prior law."

and inserting in lieu thereof

"626. Reimbursement for loss of personal effects by natural disaster.

"627. Persons eligible under prior law.

"628. Reimbursement of certain medical expenses."

SEC. 108. (a) Chapter 17 of title 38, United States Code, is amended by striking out sections 631 and 632 in their entirety and inserting in lieu thereof the following:

§ 631. Assistance to the Republic of the Philippines

"The President is authorized to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions.

"§ 632. Contracts and grants to provide hospital care, medical services and nursing home care

"(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on July 1, 1973, and ending on June 30, 1978, under which the United States—

"(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided either in the Veterans Memorial Hospital, or by contract, or otherwise by the Administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 612 of this title, for Commonwealth Army veterans and new Philippine Scouts determined by the Administrator to be in need of such hospital care or medical services for service connected disabilities;

"(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans, and for new Philippine Scouts if they enlisted before July 4, 1946, determined by the Administrator to need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

(3) may provide for the payment of travel expenses pursuant to section 111 of this title for Commonwealth Army veterans and new Philippine Scouts in connection with hospital care or medical services furnished them;

"(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of this title, for any Commonwealth Army veteran or new Philippine Scout determined to need such care at a per diem rate not to exceed 50 per centum of the hospital per diem rate established pursuant to clause (6) of this subsection;

"(5) may provide that payments for hospital care and for medical services provided to Commonwealth Army veterans and new Philippine Scouts or to United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator; and is authorized to furnish through the revolving supply fund, pursuant to section 5011 of this title, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments;

(6) will provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

"(7) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

"(b) The total of the payments authorized by subsection (a) of this section shall not exceed $2,000,000 for any one such fiscal year ending before July 1, 1978, which shall include an amount not to exceed $250,000 for any one such fiscal year for the purposes of clause (4) of such subsection.

"(c) The contract authorized by subsection (a) of this section may provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans or new Philippine Scouts for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines, except that (1) priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans and new Philippine Scouts needing hospital care for service-connected disabilities, and (2) such use shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

"(d) To further assure the effective care and treatment of patients in the Veterans Memorial Hospital, there is authorized to be appropriated for each fiscal year during the six years beginning July 1, 1972, and ending June 30, 1978—

"(1) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel who are assigned to such hospital; and

"(2) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital.

Such grants shall be made on such terms and conditions as prescribed by the Administrator, including approval by him of all education and training programs conducted by the hospital under such grants. Any appropriation made for carrying out the purposes of clause (2) of this subsection shall remain available until expended."

(b) The table of sections at the beginning of such chapter 17 is amended by striking out

"631. Grants to the Republic of the Philippines.

"632. Modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948."

and inserting in lieu thereof

"631. Assistance to the Republic of the Philippines.

"632. Contracts and grants to provide hospital care, medical services and nursing home care."

(c) Nothing in subsection (a) of this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Republic of the Philippines and the Government of the United States resulting from Public Law 89–612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 632 of title 38, United States Code, in effect on the day before the date of enactment of this section.

SEC. 109. (a) Chapter 17 of title 38, United States Code, is further amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Sickle Cell Anemia

"§ 651. Screening, counseling, and medical treatment

"The Administrator is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment, and information under the provisions of this chapter.

"§ 652. Research

'The Administrator is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

"§ 653. Voluntary participation; confidentiality

"(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequsite to eligibilty for or receipt of any other service or assistance from or to participation in, any other program under this title.

"(b) The Administrator shall promulgate rules and regulations to insure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics.

"§ 654. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary."

(b) The analysis at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER VI—SICKLE CELL ANEMIA

"651. Screening, counseling, and medical treatment.

"652. Research.

"653. Voluntary participation; confidentiality.

"654. Reports.".

TITLE II—AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

SEC. 201. Section 4101 of title 38, United States Code, is amended by amending subsection (b) to read as follows:

"(b) In order to carry out more effectively the primary function of the Department of Medicine and Surgery to provide a complete medical and hospital service for the medical care and treatment of veterans and to assist in providing an adequate supply of health manpower to the Nation, the Administrator shall, to the extent feasible without interfering with the medical care and treatment of veterans, develop and carry out a program of education and training of such health manpower (including the developing and evaluating of new health careers, interdisciplinary approaches and career advancement opportunities), and shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as physicians' assistants, dentists' assistants, and other medical technicians (including advising all such qualified veterans and servicemen about to be discharged or released from active duty of such employment opportunities), acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers; academic health centers; hospitals; and such other public or nonprofit agencies, institutions, or organizations as the Administrator deems appropriate.".

"(c) In order to attain comparability in the staff-to-patient ratio in the several services of Veterans' Administration hospitals with like services of other public and private hospitals, the Comptroller General of the United States shall, on a geographical or regional area basis, select as an index for such purpose any hospital or hospitals (or other medical installation or installations having hospital facilities) having an optimum staff-to-patient ratio in such services. Within three years after the date of the enactment

of this subsection, the staff-to-patient ratio in each such service at each Veterans' Administration hospital, domiciliary, and clinic within the same geographic or regional area shall be comparable to that in the index service of the index facility in such area at such time, taking into consideration the composition of patient population. To secure the information and statistical data necessary for the selection of such index hospital, the Administrator shall cooperate fully with the Comptroller General and may make arrangements, by contract or other form of agreement, for such medical information services. The Comptroller General shall submit to the Congress, not more than sixty days after the end of each fiscal year, a report describing the actions taken to implement the provisions of this subsection and the extent to which such provisions have been implemented. Such report shall also include a service-by-service description of the index ratios and established staff-to-patient ratios in each Veterans' Administration facility."

SEC. 202. Section 4103(a) of title 38, United States Code, is amended—

(1) by amending paragraph (4) to read as follows:

"(4) Not to exceed eight Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendations of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be individuals qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicine. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service."; and

(2) by amending paragraph (7) to read as follows:

"(7) A Director of Pharmacy Service, a Director of Dietetic Service, and a Director of Optometry, appointed by the Administrator."

SEC. 203. Section 4107 of title 38, United States Code, is amended by—

(1) amending subsections (a) and (b) to read as follows:

"(a) The per annum full-pay scale or ranges for positions provided in section 4103 of this title, other than Chief Medical Director and Deputy Chief Medical Director, shall be as follows:

"Section 4103 Schedule

"Associate Deputy Chief Medical Director, at the annual rate provided in section 5316 of title 5 for positions in level V of the Executive Schedule.

"Assistant Chief Medical Director, $41,734.

"Medical Director, $36,103 minimum to $40,915 maximum.

"Director of Nursing Service, $36,103 minimum to $40,915 maximum.

"Director of Chaplain Service, $31,203 minimum to $39,523 maximum.

"Director of Pharmacy Service, $31,203 minimum to $39,523 maximum.

"Director of Dietetic Service, $31,203 minimum to $39,523 maximum.

"Director of Optometry, $31,203 minimum to $39,523 maximum.

"(b)(1) The grades and per annum full-pay ranges for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"Physician and Dentist Schedule

"Director grade, $31,203 minimum to $39,523 maximum.

"Executive grade, $28,996 minimum to $37,699, maximum.

"Chief grade, $26,898 minimum to $34,971 maximum.

"Senior grade, $23,088 minimum to $30,018 maximum.

"Intermediate grade, $19,700 minimum to $25,613 maximum.

"Full grade, $16,682 minimum to $21,686 maximum.

"Associate grade, $13,996 minimum to $18,190 maximum.

"Nurse Schedule

"Director grade, $26,898 minimum to $34,971 maximum.

"Assistant Director grade, $23,088 minimum to $30,018 maximum.

"Chief grade, $19,700 minimum to $25,613 maximum.

"Senior grade, $16,682 minimum to $21,686 maximum.

"Intermediate grade, $13,996 minimum to $18,190 maximum.

"Full grade, $11,614 minimum to $15,097 maximum.

"Associate grade, $10,012 minimum to $13,018 maximum.

"Junior grade, $8,572 minimum to $11,146 maximum.

"(2) No person may hold the director grade in the 'Physician and Dentist Schedule' unless he is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent). No person may hold the executive grade unless he holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position."; and

(2) adding at the end thereof the following new subsections:

"(d) The limitations in section 5308 of title 5 shall apply to pay under this section.

"(e)(1) In addition to the basic compensation provided for nurses in subsection (b)(1) of this section, a nurse shall receive additional compensation as provided by paragraphs (2) through (8) of this subsection.

"(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional compensation for each hour of service on such tour at a rate equal to 10 per centum of the employee's basic hourly rate, if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of work performed between those hours.

"(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday, shall receive additional compensation for each hour of service on such tour at a rate equal to 25 per centum of such nurse's basic hourly rate.

"(4) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive such nurse's regular rate of basic pay, plus additional pay at a rate equal to such regular rate of basic pay, for that holiday work, including overtime work. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

"(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's basic hourly rate, not to exceed one and one-half times the basic hourly rate for the minimum rate of Intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to her place of employment, shall be deemed to be a minimum of two hours in duration.

"(6) For the purpose of computing the additional compensation provided by paragraph (2), (3), (4), or (5) of this subsection, a nurse's basic hourly rate shall be derived by dividing such nurse's annual rate of basic compensation by two thousand and eighty.

"(7) When a nurse is entitled to two or more forms of additional pay under paragraph (2), (3), (4), or (5) for the same period of duty, the amounts of such additional pay shall be computed separately on the basis of such nurse's basic hourly rate of pay, except that no overtime pay as provided in paragraph (5) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under paragraph (4) for such service.

"(8) A nurse who is officially scheduled to be on call outside such nurse's regular hours shall be compensated for each hour of such on-call duty, except for such time as such nurse may be called back to work, at a rate equal to 10 per centum of the hourly rate for excess service as provided in paragraph (5) of this subsection.

"(9) Any additional compensation paid pursuant to this subsection shall not be considered as basic compensation for the purposes of subchapter VI and section 5595 of subchapter IX of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits based on basic compensation."

SEC. 204. (a) Section 4108 of title 38, United States Code, is amended to read as follows:

"§ 4108. Personnel administration

"(a) Notwithstanding any law, Executive order, or regulation, the Administrator shall prescribe by regulation the hours and conditions of employment and leaves of absence of physicians, dentists, and nurses appointed to the Department of Medicine and Surgery, except that the hours of employment in carrying out responsibilities under this title of any physician, dentist (other than an intern or resident appointed pursuant to section 4114 of this title), or nurse appointed on a full-time basis who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title, shall consist of not less than eighty hours in a biweekly pay period (as that term is used in section 5504 of title 5), and no such person may—

"(1) assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Veterans' Administration facility, except in those cases where the individual, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed one hundred and eighty calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed one hundred and eighty calendar days each;

"(2) teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with his responsibilities under this title;

"(3) accept payment under any insurance or assistance program established under subchapter XVIII, or XIX of chapter 7 of title 42, or under chapter 55 of title 10 for professional services rendered by him while carrying out his responsibilities under this title;

"(4) accept from any source, with respect to any travel performed by him in the course of carrying out his responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5;

"(5) request or permit any individual or organization to pay, on his behalf, for in-

surance insuring him against malpractice claims arising in the course of carrying out his responsibilities under this title or for his dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of his remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title; and

"(6) perform, in the course of carrying out his responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for his personal benefit, or both, and in the case of any such fund or account established before the effective date of this subsection—

"(A) the affiliated institution shall submit semiannually an accounting to the Administrator and to the Comptroller General of the United States with respect to such fund or account, and thereafter shall maintain such fund or account subject to full public disclosure and audit by the Administrator and the Comptroller General for a period of three years or for such longer period as the Administrator shall prescribe, and

"(B) no physician, dentist, or nurse may receive, after the effective date of this subsection, any cash from amounts deposited in such fund or account derived from services performed prior to the effective date of this subsection.

"(b) As used in this section, the term 'affiliated institution' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement pursuant to section 4112 (b) of this title for the training or education of health manpower.

"(c) As used in this section, the term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities."

(b) The table of sections at the beginning of chapter 73 of such title is amended by striking out

"4108. Administration."

and inserting in lieu thereof

"4108. Personnel administration.".

SEC. 205. (a) Section 4109 of title 38, United States Code, is amended by striking out "the Civil Service Retirement Act" and inserting in lieu thereof "chapter 83 of title 5".

(b) Subsection (b) of section 4112 of such title 38, is amended by striking out "service personnel" in the first sentence immediately after "health" and by inserting in lieu thereof "manpower".

SEC. 206. Section 4114 of title 38, United States Code is amended as follows:

(1) by striking out the words "ninety days" in the last sentence of paragraph (3) (A) of subsection (a) and inserting in lieu thereof "one year";

(2) by inserting "(1)" immediately after "(b)" at the beginning of subsection (b) of such section and by adding at the end of such subsection the following new paragraphs:

"(2) For the purposes of this title, the term 'intern' shall include an internship or the equivalency thereof, as determined in accordance with regulations which the Administrator shall prescribe.

"(3) In order to carry out more efficiently the provisions of paragraph (1) of this subsection, the Administrator may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Veterans' Administration in the training of interns or residents to provide for the central administration of stipend payments, provision of fringe benefits, and maintenance of records for such interns and residents by the designation of one such institution to serve as a central administrative agency for this purpose. The Administrator may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Veterans' Administration hospital of (A) stipends fixed by the Administrator pursuant to paragraph (1) of this subsection, (B) hospitalization, medical care, and life insurance, and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Veterans' Administration hospital, (C) tax on employers pursuant to chapter 21 of the Internal Revenue Code of 1954, where applicable, and in addition, (D) an amount to cover a pro rata share of the cost of expense of such central administrative agency. Any amounts paid by the Administrator to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim he might have to any payment of stipends or employee benefits to which he may be entitled under this title or title 5. Notwithstanding the foregoing, any period of service of any such intern or resident in a Veterans' Administration hospital shall be deemed creditable service for the purposes of section 8332 of title 5. The agreement may further provide that the designated central administrative agency shall make all appropriate deductions from the stipend of each intern and resident for local, State, and Federal taxes, maintain all records pertinent thereto and make proper deposits thereof, and shall maintain all records pertinent to the leave accrued by such intern and resident for the period during which he serves in a participating hospital, including a Veterans' Administration hospital. Such leave may be pooled, and the intern or resident may be afforded leave by the hospital in which he is serving at the time the leave is to be used to the extent of his total accumulated leave, whether or not earned at the hospital in which he is serving at the time the leave is to be afforded."; and

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

"(e) The program of training prescribed by the Administrator in order to qualify a person for the position of full-time physicians' assistant or dentists' assistant shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Administrator may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined classroom (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week."

SEC. 207. Section 4116 of title 38, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of his duties in or for the Department of Medicine and Surgery shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical or other supporting personnel (or his estate) whose act or omission gave rise to such claim.";

(2) by striking out the last sentence in subsection (c) and inserting in lieu thereof the following: "After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of his office or employment, the case shall be remanded to the State court."; and

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

"(e) The Administrator may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a) of this section), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of his duties in or for the Department of Medicine and Surgery, if such person is assigned to a foreign country, detailed to a State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury."

SEC. 208. Section 4117 of title 38, United States Code, is amended to read as follows:

"The Administrator may enter into contracts with medical schools, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans' Administration facilities (including, but not limited to, services of physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel)."

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SEC. 301. (a) Subsection (a) of section 5001 of title 38, United States Code, is amended by—

(1) striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the following: "but in no event shall the Administrator provide for less than an average of 98,500 operating beds in Veterans' Administration *hospitals or* an average daily patient census in such beds of less than 85,500 in any fiscal *year, nor maintain such a census of less than 82,000 in any such fiscal year.";* and

(2) striking out in the first sentence of paragraph (3) "is authorized to" and inserting in lieu thereof "shall", and by striking out "four thousand beds" and inserting in lieu thereof "eight thousand beds in the fiscal year ending June 30, 1974, and in each fiscal year thereforeafter".

(b) Subsection (b) of section 5001 of such title is amended to read as follows:

"(b) Hospitals, domiciliaries, and other medical facilities provided by the Administrator (including nursing home facilities for which the Administrator contracts under section 620 of this title) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing plant is purchased, it shall be remodeled to comply with the requirements stated in the first sentence of this subsection. In order to carry out this subsection, the Administrator shall appoint an Advisory Committee on Structural Safety of Veterans' Administration Facilities, on which shall serve at least one architect and one structural engineer expert in fire, earthquake, and other natural disaster resistance who shall not be employees of the Federal Government, to advise him on all matters of srtuctural safety in the construction and remodeling of Veterans' Administration facilities in accordance with the requirement of this subsection, and which shall approve regulations prescribed thereunder. The Associate Deputy Administrator, the Chief Medical Director, or his designee, and the Veterans' Administration official charged with the responsibility for construction shall be ex officio members of such committee."

(c) Section 5001 of such title is further amended by adding the following new subsection:

"(g) The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to Veterans' Administration medical facilities when deemed necessary for safe ingress or egress."

SEC. 302. Chapter 81 of title 38, United States Code, is amended—

(1) by adding at the end of subchapter I the following new section:

"§ 5007. Partial relinquishment of legislative jurisdiction

"The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under his supervision or control are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.";

(2) by inserting immediately after the first sentence in subsection (a) of section 5012 thereof the following: "Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Administrator shall give appropriate public notice of his intention to do so in the newspaper of the community in which the lands or buildings to be leased are located."; and

(3) by inserting in the table of sections at the beginning of such chapter

"5007. Partial relinquishment of legislative jurisdiction."

immediately after

"5006. Property formerly owned by the National Home for Disabled Volunteer Soldiers.".

SEC. 303. (a) Section 5053(a) of title 38, United States Code, is amended by striking out "or medical schools" at the beginning of the material contained in parentheses, and by inserting immediately after the close parenthesis the words "or medical schools or clinics".

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

SEC. 401. Section 230(b) of title 38, United States Code, is amended by striking out "July 3, 1974" and inserting in lieu thereof "June 30, 1978".

SEC. 402. (a) Section 234 of title 38, United States Code, is amended by inserting immediately after the words "telephones for" the following: "nonmedical directors of centers, hospitals, independent clinics, domiciliaries, and".

(b) The table of sections at the beginning of chapter 3 of such title is amended by striking out

"234. Telephone service for medical officers."

and inserting in lieu thereof

"234. Telephone service for medical officers and facility directors.".

(c) The catchline at the beginning of section 234 of such title is amended by inserting immediately after the word "officers" the words "and facility directors".

SEC. 403. (a) Section 641 of title 38, United States Code, is amended by—

(1) striking out in clause (1) "$3.50" and inserting in lieu thereof "$4.50";

(2) striking out in clause (2) "$5" and inserting in lieu thereof "$6";

(3) striking out in clause (3) "$7.50" and inserting in lieu thereof "$10"; and

(4) inserting immediately after the words "veteran of any war" the following: "or of service after January 31, 1955".

(b) Section 644(b) of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

(c) Subsections (a)(1), (b)(2), and (d) of section 5035 of such title are amended by striking out "50 per centum" wherever it appears therein and inserting in lieu thereof "65 per centum."

(d) Section 5036 of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

TITLE V—EFFECTIVE DATES

SEC. 501. The provisions of this Act shall become effective the first day of the first calendar month following the date of enactment, except that sections 106 and 107 shall be effective on January 1, 1971, and section 203 shall become effective beginning the first pay period following thirty days after the date of enactment of this Act.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the able majority leader—and after concurrence therein by the Republican leader, and the Senator from Wyoming (Mr. HANSEN), the Senator from Ohio (Mr. SAXBE), the Senator from Indiana (Mr. HARTKE), and the Senator from California (Mr. CRANSTON)—to ask unanimous consent that, on the pending measure, S. 59, the time be reduced from one hour to 30 minutes on the bill, with the understanding that 10 minutes of that time be allotted to the distinguished Senator from Ohio (Mr. SAXBE).

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

Mr. ROBERT C. BYRD. And that time on each of the remaining bills, S. 49 and S. 284, be reduced from 1 hour on each bill to 10 minutes on S. 49 and 10 minutes on S. 284, to be equally divided as under the previous order.

Mr. SCOTT of Pennsylvania. Mr. President, no objection.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the rollcalls be ordered on all three bills. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to its being in order to order the yeas and nays on all three bills? Without objection, it is so ordered.

The yeas and nays were ordered.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that from this point of time until we have concluded consideration of the three veterans bills scheduled for today, and during votes, the following committee staff members be afforded the privilege of the floor: Guy McMichael, Jonathan Steinberg, Louise Ringwalt, and Tyler Craig.

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

Mr. CRANSTON. Mr. President, I wish to express my appreciation and that of the whole committee for the fine efforts of these individuals on the bills we are about to consider.

Mr. President, I ask unanimous consent that the committee amendments and the title amendment be considered and agreed to en bloc and that the bill as thus amended be regarded as original text for the purpose of further amendment.

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

Mr. CRANSTON. Mr. President, this bill should be extremely familiar to the Senate, since this is the third time that we will be acting on virtually the same provisions within the last 9 months. The provisions of this bill have been subjected to extraordinarily careful scrutiny over the last 2 years by the Subcommittee on Health and Hospitals, which I am privileged to chair, by the full Veterans' Affairs Committee, under the distinguished leadership of the Senator from Indiana (Mr. HARTKE), by the full Senate, and by the Committee on Veterans' Affairs in the other body, and that body itself.

Throughout our efforts we have proceded in a unanimous and bipartisan way in subcommittee, full commitee, and on the Senate floor. Providing quality health care to our disabled veterans is not a partisan political matter.

I want to pay special tribute this afternoon to the great cooperation and assistance which has characterized the work of the minority members of the Veterans' Affairs Committee in working with those of us on the majority side to arrive at a consensus position on all matters.

And that is what we have before us today on the floor in this bill as with the other two we shall shortly consider—a totally bipartisan, nonpartisan consensus that these measures are urgently needed and deserve the overwhelming support of the Congress.

I refer specifically to the spirit of conciliation and accommodation and great concern for the welfare of our Nation's veterans displayed by my colleague from Wyoming (Mr. HANSEN) who this Congress has already displayed outstanding leadership in taking over as ranking minority member of the full committee; the Senator from South Carolina (Mr. THURMOND), who served so ably as ranking minority member last Congress and who continues to serve as ranking minority member of the subcommittee; my good friend from Vermont (Mr. STAFFORD) with whom I also serve on the Labor and Public Welfare Committee, himself a great friend of the veteran; and our newest member, the Senator from Idaho (Mr. MCCLURE) who has already distinguished himself with an informed and bipartisan approach to veterans matters.

Nor do I wish to overlook, Mr. President, the extraordinary efforts on the part of the committee members on the majority side: Chairman HARTKE, who has rendered the best possible leadership on these measures; my distinguished colleague from West Virginia (Mr. RANDOLPH) and my friend from Iowa (Mr. HUGHES), who have provided me with such wise counsel and great support on the subcommittee and full committee, and have been so instrumental in bringing this bill and the other two we shall consider shortly to the floor for action once again; and the able senator from Georgia (Mr. TALMADGE), for years an ardent leader in Congress for just and equitable veterans programs.

Mr. President, all of these committee members have joined as cosponsors of S. 59, as well as the two other measures to be considered. They are joined in cosponsorship of S. 59 by 11 other senators: Mr. BURDICK, Mr. CANNON, Mr. HOLLINGS, Mr. HUMPHREY, Mr. KENNEDY, Mr. MCGOVERN, Mr. MONDALE, Mr. PASTORE, Mr. PELL, and Mr. WILLIAMS.

Mr. President, we all know that the provisions of this bill are basically those contained in H.R. 10880 as pocket-vetoed by the President last October 27. This bill is intended to launch the Veterans' Administration on the most comprehensive medical reforms in its 43-year history, with a 5-year cost of $587 million.

I have a prepared statement elaborating at length on the provisions of this bill, which is also fully explained in the committee report. My statement, and the committee report, contain a careful analysis of the reasons stated by the President in his memorandum of disapproval of H.R. 10880, and what I believe is a telling—indeed an overwhelming—rebuttal of those reasons.

INTRODUCTION

S. 59 as introduced was virtually identical to H.R. 10880 as passed by the Congress and pocket vetoed by the President in the 92d Congress. The Subcommittee on Health and Hospitals received written statements on S. 59 from the Veterans' Administration, veterans organizations, representatives of health professions organizations and unions, and other concerned parties. All the witnesses, other than from the administration were in support of prompt passage of S. 59.

In executive session on February 20, 1973, the subcommittee considered and unanimously ordered S. 59, with five substantive amendments and a title amendment, favorably reported to the full Veterans' Affairs Committee. The Committee on Veterans' Affairs met in executive session on February 20, 1973, and unanimously approved and ordered favorably reported S. 59, as reported from the subcommittee.

SUMMARY OF BILL AS REPORTED

BASIC PURPOSE

The basic purpose of S. 59 as reported is to improve the ability of the Veterans' Administration to deliver quality medical care to its beneficiaries by removing certain legislative restrictions on the scope of treatment—particularly for ambulatory and nursing care; by expanding coverage to certain dependents of beneficiaries or former beneficiaries; by providing for a voluntary, comprehensive sickle cell anemia screening and counseling program for requesting veterans and their spouses; by expanding the primary function of the VA Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower in order to meet national needs in addition to meeting the hospital needs of veterans, to the extent feasible without interfering with the medical care and treatment of veterans; by improving the personnel system of the Department of Medicine and Surgery (D.M. & S.) to provide for major emphasis on the recruitment, training, and employment by the VA of recent veterans with medical military occupation specialties and to make (D.M. & S.) more attractive to skilled health care personnel and thus more able to compete for scarce health care manpower; by improving the staff-to-patient ratio in VA medical facilities; by insuring that VA facilities are structurally safe; and by other means.

This comprehensive overhaul of VA medical care authorities, including significant aspects of the personnel system, is intended to eliminate certain statutory impediments which have often lead D.M. & S. to adopt restrict regulations and artificial distinctions not consistent with providing the up-to-date health care medicine is capable of providing today. Many of the provisions are virtually identical to provisions of the administration bill (S. 1924) proposed in the 92d Congress. Also, substantial positions of proposals transmitted to Congress in administration submissions on February 6 and 12, 1973, have been included. However, the reported bill also adds new authorities and expands current ones to enable D.M. & S. to attract and retain high quality health care staff; provide total health care to the veteran patient; increase medical care staffs provide sickle cell anemia screening and counseling; and derive the benefits of functioning in closer relationship to the surrounding medical community.

SUMMARY OF PROVISIONS

S. 59, as reported includes the following provisions. It first makes VA and contract hospital care and certain VA and contract ambulatory care available to wives and children of totally and permanently disabled service-connected veterans, as well as the widows and children of veterans who die from service-connected disabilities; and treats the veteran patient as part of a family unit by providing appropriate mental health care, counseling, and supportive services to members of his family when necessary to provide effective treatment to the veteran.

Second, expands coverage of eligible veterans—and new beneficiaries—to include home health services, in-hospital treatment when needed for any illnesses or disabilities—whether or not service-connected—arising while in a VA hospital, and screening and counseling for sickle cell anemia—including for the veteran's spouse—and authorizes ambulatory care for any disabilities—whether or not service-connected—where necessary to obviate the need for hospital admission; in non-VA facilities on a reimbursement basis in emergencies without prior authorization for a veteran having a service-connected disability rated at 100 percent; and in VA facilities for non-service-connected disabilities for a veteran having a service-connected disability rated at 80 percent or more.

Third, authorizes direct admission—rather than only from a VA hospital—to VA directly run nursing homes and to community nursing homes at VA expense both from military hospitals and, in the case of veterans requiring nursing home care for service-connected disabilities, after examination and determination of need for such care by a VA-employed or contract physician; and raises the statutory minimum of 4,000 VA nursing home beds to 8,000 by fiscal year 1974.

Fourth, in order generally to improve the quality of medical care in VA facilities, provides for programs to implement new and improved methods of providing health care services through innovative and more effective use of health care personnel, including development and employment of new types of health care professionals—stressing the recruitment, training and employment as physicians' assistants and dentists' assistants of recent veterans with military MOS's; requires that the staff-to-patient ratio in VA medical services be comparable to that of equivalent services in community facilities within 3 years; authorizes and requires the VA to provide for an average no less than 98,500 operating beds and of no less than an average daily patient census—ADPC—in such beds of 85,500 in any fiscal year. Such a census may not be maintained at less than 82,000 in any fiscal year as compared to the budgeting and projection mandates at a level of 85,500—maintenance of an ADPC of 85,500 was man-

dated for both fiscal years 1972 and 1973 in each years respective appropriation Act.

Fifth, improves the D.M. & S. personnel system by providing new authorities to provide overtime and premium pay for title 38 nursing personnel comparable to that offered in the community.

Sixth, requires VA facilities to be structurally sound and able to withstand fire, earthquake or other natural disasters and authorizes VA reimbursement for the loss of personal effects in VA hospitals or domiciliaries as a result of such disasters—made retroactive to January 1, 1971.

Seventh, includes certain substantial portions of certain provisions requested by the administration in the 92d Congress and in the 93d: Expansion of malpractice coverage for VA health workers; authorization of central administration for residents and interns; clarification of authority to reimburse for emergency care provided for service-connected disabilities and to engage in sharing of specialized medical resources with clinics and medical schools; authorization to cede concurrent jurisdiction over VA lands to a State; increasing from 50 to 65 percent of the VA share of grants to States for State veterans homes; adjustments of minor medical personnel and other administrative authorities; extension through fiscal year 1978 and expansion—to include nursing home care and contract care for certain new Philippine Scouts, of authorities which expired on June 30, 1973, and June 30, 1972, for VA grants for operation of and health personnel education and training in Philippines Veterans' hospitals and to continue operation of the VA Regional Office in the Philippines, respectively.

ACTION IN THE 92D CONGRESS

Mr. President, the background for the broad series of reforms in the bill as reported includes extensive VA medical care oversight hearings I held in the 91st Congress between November 1969 and April 1970 and the continuation of these oversight hearings on April 28, 29, and 30, 1971, before the Health and Hospitals Subcommittee of the Committee on Veterans' Affairs, established in the 92d Congress.

These hearings focused principally on VA medical and hospital budget requests for fiscal years 1971 and 1972, and culminated in detailed and comprehensive budgetary findings and recommendations for increased appropriations and a resulting total appropriation increase of $450 million over a 3-year period above the amounts requested in the original budget submissions.

These same oversight hearings over an 18-month period produced extensive information regarding not only funding inadequacies in the operation of D.M. & S. but also programmatic shortcomings derived largely from restrictive statutory provisions in title 38 of the United States Code. The prescription to overcome these difficulties was I believe, set forth in S. 2354 which I introduced on July 27, 1971. Hearings on S. 2354 were held August 4, 1971. This bill was in part a companion measure to H.R. 37 and its successor bill H.R. 10880 passed by the House in the 92 Congress. It also incorporated with some relatively minor revisions almost all the administration's proposals included in S. 1924 in the 92d Congress and several other minor VA proposals submitted subsequently.

As a result of the hearings and the previous ones in the 91st Congress, the committee found that the potential increase in the need for care for veterans of the Vietnam era, particularly those in need of treatment for drug addiction, combined with the aging of the World War II veteran population with a concomitant onset of medical complications to those veterans, promises increasing demands on the Veterans' Administration hospital and medical system in terms of staff and facilities. Moreover, the rapid technological advances occurring continually in the medical community create an added obligation on the Veterans' Administration which though a leader in many of these areas, must keep its staff informed, and its equipment up to date, in terms of new techniques and treatment processes, as they are developed.

Mr. President, S. 2354 was intended to provide D.M. & S. with the full legislative authority needed to meet the increasing demand for care with application of up-to-date medical care and technology, to attract and retain high quality staff able and motivated to provide total health care to the veteran and, in certain instances, members of his family, and to function in closer relationship to health care institutions and personnel in the surrounding community.

S. 2354 was ordered reported on March 28, 1972, and was adopted by unanimous vote by the Senate on May 4, 1972. After extensive negotiations between the Committees on Veterans' Affairs of the two bodies, an appropriate and effective accommodation of the different versions of the proposed legislation was reached. This compromise version was unanimously accepted in both Houses and forwarded to the President for signature as H.R. 10880.

PRESIDENTIAL VETO

On October 27, 1972, President Nixon announced his pocket veto of H.R. 10880, issuing the following Memorandum of Disapproval:

Veterans Health Care Expansion Act of 1972 (H.R. 10880) —

The liberalizing features of this bill would unnecessarily add hundreds of millions of dollars to the Federal budget. It would open the VA hospital system to nonveterans and would expand the type of direct medical services available from VA. By providing direct medical services to veterans' dependents, the bill runs counter to this Administration's national health strategy which would provide national financing mechanisms for health care and sharply reduce the Federal Government's role in the direct provision of services.

The bill also purports to set mandatory minimums on the number of patients treated in VA hospitals. In testimony on this bill, the Veterans Administration strongly objected to this provision on the grounds that it was totally unnecessary and could result in inefficient medical treatment and wasteful administrative practices. The tragic result would be a lower quality of medical care to all patients.

While I strongly support the VA health care system and will continue to encourage its improvement in the future, I cannot approve a bad bill.

RICHARD NIXON.

THE WHITE HOUSE, October 27, 1972.

VETO REBUTTAL: DISCUSSION

Mr. President, the committee carefully considered the Memorandum of Disapproval on H.R. 10880 as well as the VA's testimony in the 93d Congress. We reviewed three volumes of hearings from the 91st and the 92d Congress, and asked witnesses who appeared in previous hearings in the 92d Congress for their views concerning the reasoning in the President's memorandum.

In statements submitted to the committee from veterans organizations, health professions organizations, and other interested groups, the response has been of one mind on three points: First, support and endorsement of the bill as passed in the 92d Congress, second, the need for early action in the 92d Congress, and third, rejection of the grounds for the veto as stated in the Memorandum of Disapproval.

In view of this response and the bipartisan support for the bill as passed in the 92d Congress, the committee reported S. 59, which, with the exception of the five amendments and a title amendment set forth earlier in the report, is virtually identical to the bill as pocket vetoed by the President. We disagree with the objections set forth in the Memorandum of Disapproval for the following reasons:

First. The liberalizing features of this bill would unnecessarily add hundreds of millions of dollars to the Federal budget. It would open the VA hospital system to non-veterans and would expand the type of direct medical services available from VA.

Mr. President, there are two factors in this objection.

First, the memorandum suggests that the expansion of benefits to veterans are unnecessary, and, from that premise, that the additional funds required to do so are an unnecessary burden on the Federal budget.

The committee believed that several principles should guide the VA medical program in producing first quality care for the Nation's veterans. Among these are treating the veteran as a whole patient, treating the veteran as part of a family unit, and treating the veteran as a member of his community.

These are principles which all health care personnel adhere to, but which restrictive authorities in the current statute—title 38, United States Code—governing the Veterans' Administration prevent staff of VA facilities from following. The bill expands these authorities to provide benefits to veterans in line with today's accepted medical practice standards.

In line with the principle of treating the veteran as a "whole" patient, Mr. President, the bill would amend present restrictions on care for non-service-connected conditions unrelated to the condition for which a veteran is hospitalized.

Clearly, a physician cannot ethically assume responsibility for only a portion of his patient's health, and the bill would make clear that a veteran hospitalized for one condition may also be treated for another condition if the veteran is willing and the physician finds such services to be reasonably necessary to protect the veteran's health.

Along these same lines, the bill also expands authorities for outpatient care when needed to obviate a future need for hospital care. Such ambulatory care will permit the veteran to receive necessary treatment while still remaining with his family and many times without causing an interruption of his employment responsibilities.

Another provision of the bill, Mr. President, would permit veterans to apply for direct admission to a VA nursing home without prior VA hospitalization, as well as authorize direct transfer of a veteran from a military medical facility to either a VA or a community nursing home, and direct admission to such an institution for a veteran if certified essential for a service-connected disability by a VA physician.

In line with the principle of treating the veteran as part of a family unit, the bill authorizes bringing key family members to VA hospitals for orientation on the philosophy, goals, and achievements of a veteran's rehabilitation program. This is vital in the recovery of a physically disabled veteran, and in providing psychiatric treatment to a veteran, it is essential that he be treated as part of a family unit and that his family be counseled in connection with his care.

Mr. President, the bill also expands eligibility for VA medical care to a limited group of individuals. These are peace-time veterans who are unable to afford private care, some 150,000 persons; veterans suffering from 80 percent or more service connected-disabilities whose benefits are expanded to cover all medical care rather than just care limited to that disability, some 47,785 persons; and the wives and children of veterans with total and permanent service-connected disabilities and widows and orphans of veterans who died as a result of a service-connected injury, some 282,000 wives, widows, and children.

These are the "liberalizing features" which the memorandum states will "unnecessarily add hundreds of millions of dollars to the Federal budget."

These veterans and their families have contributed a good part of their lives to their country and done so at a substantial personal sacrifice. The committee did not feel that the expenditure of funds for these purposes was in any way nonessential. In some instances, the broadened benefits will result in providing medical care in a more effective manner which will result in cost savings in the treatment of the individual patient. In all cases, the quality of care will be improved in accordance with modern medical practice.

The numerous precedents for affording substantial VA benefits to the dependents and survivors of seriously service-connected veterans, and the inequities in terms of government-supported care for such dependents and survivors of enlisted men, are discussed at length in the Committee report under the heading "Hospital Care and Medical Services for Dependents and Survivors of Totally Disabled Veterans" at pages 23 and 24.

Even the VA's own cost estimates for S. 59 place the 1-year cost at about $100 million, rather than the "hundreds of millions" the memorandum suggests.

Second. By providing direct medical services to veterans' dependents, the bill runs counter to this administration's national health strategy which would provide national financing mechanisms for health care and sharply reduce the Federal Government's role in the direct provision of services.

Mr. President, the committee is firmly committed to the principle that the veterans of the Nation deserve a medical system which will be responsive to their needs and will be capable of providing them immediately with quality care for treatment of the disabilities they have incurred in the service of their country.

In many instances, the nature of a veteran's injury requires the services of several medical specialists and a concentrated and lengthy program of physical rehabilitation as well as a lengthy period of recuperation. It is to meet these complex and special needs the VA system was established. There are no indications at present that the community in general has been able to provide these services promptly at so reasonable a cost as the VA to any individual, nor that it will be able to do so in the foreseeable future. Given the lack of services in the community, this committee categorically rejects any suggestion that the VA medical system will not be sustained as long as there are service-connected disabled veterans who need its services.

The objection in the memorandum is an indication of the direction this administration's policies are following which threatens to result in the eventual dismantling of the VA medical system. The committee totally rejects any such eventuality. And I believe the Senate rejects it too.

Rather we seek in S. 59 to strengthen the independence of the VA medical system and prevent its piecemeal destruction by enabling it to provide better, more modern, care in a more efficient manner to eligible veterans.

Third. The bill also purports to set mandatory minimums on the number of patients treated in VA hospitals. In testimony on this bill, the Veterans' Administration strongly objected to this provision on the grounds that it was totally unnecessary and could result in inefficient medical treatment and wasteful administrative practices. The tragic result would be a lower quality of medical care to all patients.

Mr. President, the committee has amended the bill to meet the objection raised by the memorandum that a mandatory minimum might result in inefficient medical treatment and wasteful administrative practices. H.R. 10880, the bill pocket vetoed by the President, provided that an average daily patient census of no less than 85,500 be maintained. This same requirement has been imposed by the VA appropriation Acts for both fiscal years 1972 and 1973.

An analysis of the VA average daily patient census for the current fiscal year shows that it will be approximately 82,000, although for the month of January it is 84,156—1,000 higher than in January of 1972. At the same time, in December of 1972, there were 32,237 veterans on VA waiting lists or scheduled for hospital admission—determined to need care no sooner than 30 days. The committee is aware of the somewhat elevated nature of this total due to certain ambulatory care projects being carried out. Thus, in the event that ambulatory care authorities in the bill do free some VA hospital beds, there would seem to be ample veteran patients needing hospitalization to fill them.

Nevertheless, the VA fiscal year 1973 budget is predicated upon an average daily patient census of 80,000, and there is every indication that OMB will force the VA to provide station allowances to hospitals based upon such an arbitrarily reduced census. The effect of this would probably be to reduce the actual census realized in fiscal year 1974 to 78,000, since this has been the history since 1962—the actual census figure achieved, being about 2,000 lower than the projected census in that year's budget request.

These trends, coupled with the memorandum's statement regarding administration strategy to "sharply reduce the Government's direct role in the provision of health services" indicate the need for Congress to express its intent clearly.

That is why we must pass S. 59 today in order to counteract such strategy by mandating a particular census minimum.

However, it is recognized that such a minimum could be counterproductive if it set a minimum figure at too high a level. Thus, we altered the language so that the 85,500 figure will be used for budgeting purposes and the determination of individual hospital station allocations, rather than being mandated as the minimum average census figure that must be maintained in the fiscal year. At the same time, in order to permit the census figure to be able to "float freely" at approximately the level anticipated for fiscal year 1973, the bill includes a provision that such census not be maintained at less than the 82,000 figure projected for this fiscal year.

Mr. President, the committee report on S. 59—Report No. 93-54—contains an extensive discussion of the provisions in the bill as well as a section-by-section analysis. Mr. President, I ask unanimous consent that appropriate excerpts from the report be included in the RECORD at this point in order to provide a full explanation and analysis of the provisions of the bill as reported from committee.

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

S. 59

DISCUSSION

TREATING THE VETERAN AS PART OF A FAMILY UNIT

Broadening the treatment of the veteran to include a veteran's family when necessary

to the care and treatment of the veteran, as is proposed in the reported bill, will fulfill the basic need—particularly in psychiatry—of treating the patient as part of a family unit, not as an isolated individual removed from any family or social setting. Similarly, total care of a physically disabled veteran may require that his family be fully oriented on the philosophy, goals, and achievements of his rehabilitation program. The VA should be able to bring key family members to the hospital for such an orientation, as is done now on a limited basis with nonappropriated funds at some VA blind centers. The VA estimates first year costs of counseling and orientation for family members of a service-connected disabled veteran at $10 million.

These family provisions also would provide specific authority for the VA to stress home health care programs for any hospitalized veteran, or dependent made eligible under the reported bill. Although a start has been made by the VA in home kidney dialysis and care of spinal cord injured veterans at home, much more needs to be done, especially in the psychiatric field. Most medical experts agree that institutional care is the least desirable. All feasible alternatives should be fully explored under the provisions in the reported bill.

Home health care—employing mobile interdisciplinary teams to train families and conduct posthospital followup—can in many cases provide more compassionate, more effective, and far more economical care.

COMPARABILITY OF TREATMENT FOR PEACE-TIME VETERANS

The reported bill expands eligibility for hospital (including full nursing home) and certain outpatient care to include so-called peacetime veterans. Providing comparability in the eligibility of peace-time and war-time veterans for hospital, nursing home, and domiciliary care is the logical extension of the amendment enacted in 1970 in Public Law 91-500, section 4, authorizing such care to both peace-time and war-time veterans 65 years of age or older for non-service-connected disabilities regardless of ability to defray necessary expenses of hospital care. Under the reported bill, new eligibility is provided for approximately 150,000 peacetime veterans—generally those whose service ended prior to April 6, 1917, those who served between November 12, 1918 and December 6, 1941, and those who served between January 1, 1947, and June 27, 1950—at a first year cost estimated by the VA as $7.9 million.

HOSPITAL CARE AND MEDICAL SERVICES FOR DEPENDENTS AND SURVIVORS OF TOTALLY DISABLED VETERANS

The reported bill authorizes, for the first time, provision of hospital care and certain medical (outpatient) services in VA medical facilities for the wife and children of a veteran with a total and permanent service-connected disability and the widow and children of a veteran who died from a service-connected disability, as long as the provision of such care does not interfere with the furnishing of hospital and domiciliary care to eligible veterans. Eligibility for hospital care under the reported bill includes eligibility for nursing home care in both VA directly-run and community nursing homes. Authority to contract for hospital care for such eligible dependents and survivors is also provided.

The Committee has expanded eligibility for hospital and medical care to these dependents and survivors because it has found that these persons very often cannot obtain or are not eligible for present health insurance programs, either because they are excluded as a result of the living veteran's 100 percent disability (for whose medical needs the VA now provides totally) or because they cannot afford premiums for such insurance.

The VA estimates that only about twenty percent of these wives, widows, and children would have other Federal eligibility under such programs as Medicare, Medicaid, and the Military Medical Benefits Act (CHAMPUS); and that 68 percent of those who would be made eligible are without any additional sources of Federal medical care entitlement.

Under the terms of the Military Medical Benefits Act, hospital and medical care is made available (either directly in military medical facilities or in a community facility with very modest copayment and deductible provisions) to dependents of retired military personnel and to the widows and children of servicemen who die while on active duty. The Committee feels that such benefits should be made available to the dependents of totally disabled service-connected veterans not afforded the benefits of medical retirement, and the survivors of veterans who die, whether or not on active duty, from service-connected injuries. The fact is that the present statutory scheme discriminates most unfairly against many World War I and II and Korean conflict veterans who were enlisted men and thus were not eligible for medical retirement.

The Nation has long recognized that the widow and children of a veteran who dies of service-connected disease or injury are in a special category and deserving of substantial compensation and assistance in return for the sacrifice the family has made. This recognition has been shown in title 38 programs which provide for death compensation benefits, home loans, and educational assistance benefits for wives, widows, and war orphans. Failure to provide for the medical care of such individuals is an oversight which should be corrected.

This new eligibility would extend hospital, domiciliary and nursing home care benefits to approximately 282,000 persons not presently entitled to other Federal health benefits, such as under Medicare, Medicaid and Military Medical Benefits programs: 56,100 wives and 78,000 children of veterans with total and permanent service-connected disabilities (total—134,100) and 57,600 widows and 91,000 surviving children of veterans who died of service-connected disabilities (total—148,600). The first year cost of this new eligibility is estimated by the VA to be $12.7 million for VA hospital and medical care and $21.3 million for contract care.

EXPANSION OF OUTPATIENT MEDICAL SERVICES

Under present law, outpatient and ambulatory care for non-service-connected disabilities of veterans may be provided only on a pre-hospital or post-hospital care basis or to any war veteran with a total and permanent service-connected disability. The reported bill adds eligibility for outpatient care to be provided to any veteran (as well as the wife and children of any veteran with a total and permanent service-connected disability and the wife and children of any veteran who died from a service-connected disability) "when reasonably necessary . . . to obviate the need of . . . hospital admission". It also authorizes such outpatient care for any veteran with a service-connected disability rated as 80% or more disabling. The Committee believes strongly that any expansion of ambulatory care provided by the VA must focus substantially on the veteran seriously disabled by service-connected conditions.

Under the new "necessary to obviate" hospital care standard, a veteran with a non-service-connected disability would still be required, pursuant to present section 622 of title 38, to complete an oath of inability to defray the necessary expenses of the hospital care which would be obviated.

The reported bill would increase those eligible for VA outpatient care by approximately 636,000 persons by including 150,000 peacetime veterans, 282,000 wives, widows and children, and 204,808 additional veterans with 80% or more service-connected disabilities.

The cost for the expansion of outpatient eligibility "to obviate" hospitalization is estimated to be nothing; and the first-year cost for hospital or nursing home care for peacetime veterans is $7.9 million; for wives, widows and children is $12.9 million; and for the 80% and 90% service-connected disabled is $1.6 million. The cost of outpatient care for eligible dependents is included in the estimated $21.3 million first year cost for contract care for these individuals.

Finally, the reported bill somewhat expands the scope of VA outpatient care provided to a veteran with a total and permanent service-connected disability. Presently, the VA interprets title 38 to authorize it to contract for such outpatient services for such a veteran. However, its authority is unclear to approve reimbursement for such 100 percent service-connected disabled veteran's care provided to meet an emergency through non-VA resources.

The reported bill places in statutory form the basic provisions of the current VA regulation (VAR 6080) setting forth the criteria under which the expenses of medical care and treatment furnished in a medical emergency in non-VA facilities (and not authorized by the VA prior to the date the care and treatment was furnished) may be paid on behalf of a veteran who receives such care and treatment for a service-connected condition, or in order to be able to pursue a program of vocational rehabilitation under chapter 31 of title 38. As indicated above, it would also broaden the scope of current practice under the regulation to include reimbursement to veterans with 100 percent service-connected disabilities who are furnished emergency care and treatment for non-service-connected disabilities.

VAR 6050.4 now provides that admission of any eligible veteran to a non-VA medical facility at VA expense must be authorized in advance. It also provides, however, that when the admission is based upon an emergency the advance approval requirement will be determined to have been met if an application therefor is presented to the VA within 72 hours after the date of admission and is approved. If this does not occur, the veteran-patient cannot receive reimbursement for his private hospital care unless he received such care in a medical emergency for a service-connected disability, within the criteria set forth in VAR 6080, discussed above.

The new provision in the reported bill (new section 628) will make clear that reimbursement of private medical expenses may be authorized, without the necessity for an application therefor to be furnished to the VA within 72 hours of admission, for veterans treated (1) for a service-connected condition of any veteran, or for any disability (including a non-service-connected condition) of a veteran with a 100 percent service-connected disability, and (2) when such treatment is rendered in a medical emergency under situations where VA or other Federal facilities were not feasibly available, or an attempt to use them would have not been reasonable, sound, wise, or practical. The effect of this is that with respect to the service-connected disability (or for the non-service-connected disability of a 100 percent service-connected disabled veterans) of any eligible veteran there will be only one rule (rather than two as presently in VARs 6080 and 6050.4) and the 72-hour requirement will be eliminated. The Committee expects that DM&S will revise and simplify its regulations accordingly if this provision is enacted.

EXPANSION OF NURSING HOME CARE

The reported bill permits veterans (and eligible dependents and survivors) to apply for direct admission to a VA nursing home without prior VA hospitalization and authorizes the direct transfer of a veteran from a military medical facility to either a Veterans Administration or a community nursing home. Direct admission to community nursing homes would also be authorized for veterans found by a VA physician after examination to require nursing care. The VA estimates the first-year cost of direct admission to a community nursing home for service-connected veterans to be $11.2 million.

In addition, the reported bill raises the present statutory minimum of 4,000 VA nursing home beds to 8,000 by fiscal year 1974. There is presently an unmet demand for VA nursing home beds by World War I veterans which will expand as our World War II veterans grow older. The Committee believes that hospital beds not being fully utilized should be converted to VA nursing home beds, since quality community nursing homes are already greatly in demand among the aging population of nonveterans.

IMPROVED AND EXPANDED DM&S PERSONNEL SYSTEM

HEALTH CARE PERSONNEL TRAINING

The reported bill revises Department of Medicine and Surgery personnel authorities to enable the VA to compete more effectively for scarce health professionals. The VA also must be able to enlarge its training program if it is going to make up its personnel shortages. The reported bill expands the primary functions of the VA Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower not only to meet the hospital needs of veterans, but also to meet national needs, where such training will not interfere with the medical care and treatment of veterans.

TRAINING OF PARAMEDICAL PERSONNEL

The Committee urges that DM&S greatly expand its programs for the training of physicians' and dentists' assistants, presently in operation at about 20 VA hospitals. The Committee believes that the DM&S has the capacity to train, graduate and employ approximately 300 such paramedics annually within a year after a major program is undertaken. To provide extra assistance with the support of former medics and corpsmen undertaking such training in VA hospitals (largely OJT) the reported bill provides that generally such training programs are to be considered full-time institutional programs for GI bill purposes, such as a physician's internship or residency is now. The Committee expects that the formal trainee period for such a position, pursuant to section 414 of title 38, would not be prolonged.

Advancement opportunities

The reported bill also directs DM&S to provide for maximum opportunities for lateral mobility and career advancement for all its health care personnel, with particular emphasis upon continuing education and arrangements for obtaining academic credit for such on-job or in-job training. There is a particularly great need to open up career advancement and upgrade education opportunities for nursing assistants to be trained and advance to L.V.N.s, for L.V.N.s to move on to the increased responsibilities of the Registered Nurse, and for R.N.'s to be given special training to assume independent patient care responsibilities as nurse practitioners and physicians' and dentists' assistants. The VA, which employs the great majority of all Federal nursing personnel, should set an example, for emulation in the community at large, of an integrated and open nursing personnel service.

The Committee is aware of some valuable pilot programs underway in DM&S, particularly in conjunction with community colleges (the VA cited its program at the Little Rock, Arkansas, VA hosptial at the hearings in the 92d Congress) for upgrading of the various levels of nursing personnel. It believes that such continuing education programs should be a regular part of the education and training of nurses, as well as health professionals and technicians and all health care personnel, at every VA hospital. In this way, it is hoped, the relatively high turnover rate, particularly at the lower paying grades, can be reduced.

The Committee is aware, as cited earlier with approval, of a long overdue increase in the average grade level to which L.V.N.'s and nursing assistants have been assigned in the past four years in DM&S. In the Committee's view, this achievement is the result of a belated recognition of the skills and responsibilities of these valuable members of the health care team and not of an alteration of qualifying requirements. The following table shows that between December, 1967 and December, 1972 the numbers of NAs and LPNs (and LVNs) at GS 5 and 6 increased from 2,240 to 11,177.

However, the Committee also wishes to express its concern for the trend which developed in FY 1972, as shown on the following table, for greater concentration of nursing personnel at the lower grades, even though the upper grade participation is increasing. The Committee views with considerable alarm this trend as an indication of the employment of less experienced, and hence less highly paid, nursing personnel which appears to be a result of the grade deescalation policies imposed on the VA by the Office of Management and Budget.

TABLE I.—4-YEAR GRADE LEVEL COMPARISON—NURSING ASSISTANTS AND LICENSED PRACTICAL NURSES

	Dec. 31, 1967			Dec. 31, 1970			June 30, 1971			Dec. 31, 1971			Dec. 31, 1972			Net 5-year change
	NA	LPN	Total	NA	LPN	Total	NA	LPN	Total	NA	LPN	Total	NA	LPN	Total	
GS-7								7	7		7	7				
GS-6	18		18	414	616	1,030	718	873	1,591	769	944	1,713	847	933	1,780	+1,762
GS-5	1,240	1,000	2,240	4,123	2,018	6,141	6,783	2,387	9,170	7,066	2,378	9,444	6,864	2,533	9,397	+7,157
GS-4	8,822	2,021	10,843	11,303	1,397	12,700	12,277	1,200	13,477	11,996	1,213	13,209	11,484	1,549	13,033	+2,190
GS-3	13,404	634	14,038	7,791	297	8,088	4,865	454	5,319	4,512	585	5,097	4,413	858	5,271	−8,133
GS-2	2,496		2,496	1,043		1,043	1,074		1,074	1,214		1,214	2,547	1	2,548	+52
GS-1				3		3	71		71	33		33	130		130	+130
Total	25,980	3,655	29,635	24,677	4,328	29,005	25,788	4,921	30,709	25,590	5,127	30,717	26,285	5,874	32,159	+2,524

STAFF-TO-PATIENT RATIO

The reported bill would also require that every VA facility, within 3 years of enactment, reach an optimum staff-to-patient ratio in its services which is comparable to the ratio for index services (or a general average) provided in the surrounding community. Gross disparities have been pointed out between VA staff-to-patient ratios and those computed for community or university hospitals: 1.5 for the VA general hospital as compared with 2.7 for the average community hospital and 3.5 to 4.0 for the university hospital. These figures, however, are misleading and do not take into account variations between VA medical facilities and community facilities in terms of patient composition, age, nature of disability and mission. Nevertheless, the figures are grossly disparate and the Committee believes that if after al necessary adjustments are made, comparability of staffing is not shown, then staffing levels should be raised steadily to achieve such adjusted comparability.

The reported bill directs the Comptroller General of the United States to designate for every service in each VA medical facility a comparable service in a hospital or hospitals in its geographic area, having an optimum staff-to-patient ratio in such service, to serve as an index for establishing adequate staff-to-patient ratios in the VA service.

This provision in the reported bill has been amended by the Committee to remove from the Veterans Administration the burden and expense it has stated would be entailed in carrying out the statistical survey needed to select comparable service indices in the community against which staff-to-patient ratios in VA medical services can be measured. The Committee amendment shifts this responsibility to the Comptroller General, and directs the Administrator to cooperate with him fully in this matter, particularly in so far as collecting pertinent data for the VA and the communities involved.

Available information fully documents the wide disparity between staff-to-patient ratios in VA facilities and those at comparable community facilities, using gross figures.

VA staff-to-patient ratio survey

A survey conducted in 1971 by the VA (set forth in the Appendix) shows some of the wide variations that exist in staffing intensity between VA hospitals and community hospitals. The VA hospitals used in the survey ranged in size from 188 beds to 1,565 and contained 5,339 operating beds. The gross staffing ratios in VA hospitals ranged from 1.19 to 2.49 employees per operating bed. The overall ratio for the nine VA GM&S hospitals surveyed was 1.70 employees per operating bed. Since outpatient staffing could not accurately be separated from inpatient staffing in several of the hospitals, all statistics were included in the total.

The community hospitals ranged in size from 130 beds to 1,063. The eight community hospitals surveyed contained 3,678 operating beds. The gross staffing ratios in community hospitals ranged from 2.08 to 4.33 employees per operating bed. The overall ratio for the eight community hospitals was 3.23 employees per operating bed. The overall ratio for the eight community hospitals was 3.23 employees per operating bed.

Overall, the community hospitals were staffed almost 2 to 1 over VA hospitals. The overall occupancy rate of the VA hospitals surveyed was 89 percent compared to 85 percent for the community hospitals. Percentagewise the VA utilizes almost three times as many volunteer and other nonpaid productive workers as the community hospitals. This amounted to 6½ percent of the paid VA hospital combined staffs as compared to

2½ percent of the paid community hospital combined staffs. When the unpaid personnel are added to the paid staff, the overall VA ratio rises from 1.70 to 1.81.

The community hospital ratio rises from 3.23 to 3.31.

Especially significant, the Committee believes, is a survey of nursing service statistics made in this study. It illustrates that community hospitals are staffed for nursing personnel on the average about twice as well numerically as VA hospitals. The cumulative averages showed VA hospitals have one nursing employee to every 1.8 beds while community hospitals in the survey have one nursing employee to every 1.0 bed. It is important to note that staffing of nursery, labor and delivery rooms in community hospitals was not included in these figures because VA hospitals do not have these services.

Moreover, the study showed that community hospitals have approximately twice as many registered nurses per bed as VA hospitals. It should be noted that special duty nurses in the community hospitals are hired *in addition* to basic nursing personnel, while in the VA hospitals the basic staff provides special duty nursing. Since the community hospitals covered by the survey did not keep statistics indicating the utilization of special duty nurses—which would cause an *increase* in their staff-to-patient ratios—the survey does not provide a totally accurate picture of staffing ratios.

The following tables from the survey show the three basic tours that all hospitals use. The statistics gathered show the average VA hospital nursing unit was 33 beds and the average community hospital nursing unit was 30 beds. For the total Nursing Service, personnel were assigned as follows:

TABLE II.—*All nursing personnel*

[In percent]

VA:	
Day tour	64
Evening tour	20
Night tour	16
Community:	
Day tour	57
Evening tour	26
Night tour	17

This table and the survey data show that the day tour was staffed almost 50 percent better per nursing unit in community hospitals than VA hospitals. The evening tour in community hospitals was staffed twice as well as the VA hospitals, and the night tour was staffed a little less than twice as well in the community hospitals.

In terms of numbers of nursing personnel, for the night shift the VA hospitals surveyed had an average 2.9 nursing personnel per unit in the hospitals surveyed for 7-day coverage. The community hospitals averaged 5.2 nursing personnel per unit.

Regarding the evening shift, the community hospitals used more of their staffs than did the VA hospitals—26 percent versus 20 percent. By contrast, the VA staffed its day shift with a higher proportion of available staff than community hospitals—64 percent versus 57 percent. The night shift is about the same—VA 16 percent versus community 17 percent.

The following table shows registered nurses by shift; the percentages assigned to the three shifts are in the same approximate proportion as for all nursing personnel.

TABLE III.—*Registered nurses*

[In percent]

VA:	
Day tour	67
Evening tour	19
Night tour	14
Community:	
Day tour	58
Evening tour	24
Night tour	18

The survey also showed that community hospitals are staffed nearly three times as well in X-ray units as VA hospitals. This is in part attributable to the fact that community hospitals tend to use scheduled staff at night and on weekends rather than to use callback.

This study and the figures cited quite clearly demonstrate the types of startling staffing disparities which exist today between VA and community hospitals and which the staff-to-patient provision in the reported bill is designed to deal with.

As discussed above, the Committee recognizes fully that there are variations in the patient population composition between VA facilities and community hospitals and that there are different demands for services provided from the two populations. These variations account for some of the disparities in the staff-to-patient ratios cited above. However, the Committee believes that there are ample instances of clinical services and units which are fully comparable and that the disparities in the above statistics cannot be properly accounted for merely by reciting the differences between VA and community hospitals.

In summary, because gross comparisons are not meaningful unless they take fully into account the composition of the patient population—age, sex, nature of illness, the somewhat varying missions of VA and community facilities, and the differing methods of computing staff numbers—the study directed by this provision in the bill is designed to provide for a meaningful comparison by taking all of these factors into account in the most comprehensive manner.

The Committee would also expect the index or composite index unit to be chosen on the basis of the most applicable comparable services. In some instances, there may not be a comparable community unit, as in the case of highly specialized and advanced programs such as spinal cord injury units. In these instances, the Committee expects that a comparable unit of high quality will be selected on a nationwide basis.

NURSING PERSONNEL DIFFERENTIAL AND PREMIUM PAY

The reported bill authorizes the payment of overtime pay, shift differentials, and premium pay for holidays and Sundays for VA title 38 nursing personnel (including intermittent and part-time nurses) at rates generally comparable to those now available to employees under the General Schedule and Wage Board Systems. For a detailed discussion of the provisions and the extent to which they differ from other Federal pay provisions, reference should be made to the *"section-by-section analysis"* toward the end of this report. This authority is designed to enable the Veterans' Administration to provide benefits to nursing staff comparable to benefits offered in community hospitals and in other Federal hospitals under the Civil Service General Schedule.

The provisions with respect to overtime pay in the reported bill include a definition that overtime pay does not begin until at least 15 extra minutes are worked. The Committee wishes to make clear that this provision must not be construed as authorizing a standard extension of tours by 15 minutes. For example, where allowance is not made in the scheduling of regular eight-hour work tours for overlapping in order to brief incoming nursing personnel, overtime should be paid if an overlap is required on a regular basis. In addition, the first 14 minutes worked shall count toward the computation of overtime pay when the total overtime for that tour is of fifteen or more minutes duration.

Included among these pay provisions is reimbursement to the nurse for time scheduled "on call." Such time will be reimbursed at the rate of ten percent of the basic overtime rate for each hour officially scheduled "on call." The Committee understands that the abuse of "on call" duty has occurred with some frequency in VA facilities located in smaller communities and in the case of staff assigned to operating rooms and intensive care units. Personnel in these situations may be subjected to extraordinary impositions on their private time by repeated assignment to be "on call." Permanent records of "on call" assignments are not presently maintained inasmuch as under present law this is not compensable duty.

The requirement that the VA pay registered nurses "officially scheduled to be on call outside . . . regular duty hours" at ten percent of the basic overtime rate will result both in the maintenance of written records and in a review of the "on call" assignment by administrators responsible for the control of funds. Thus, at a relatively low cost, the Committee would expect that abuses will be abolished or, at least minimized.

The VA estimates the first-year cost, of these differential and premium pay provisions for title 38 nurses to be $26.7 million.

DM&S PERSONNEL GRADES, PAY SCHEDULES AND BENEFITS

The reported bill revises the schedules of grades and pay scales for VA Department of Medicine and Surgery officers, physicians, dentists, and nurses generally along lines recommended by the administration. Basically, the amendment reflects current practice under the three recent Federal pay increases. In addition, the Director of Nursing is upgraded to a level comparable to Medical Director grade (in the Section 4103 Schedule)—the grade assigned Directors of DM&S Services, such as Psychiatry, for example. The Committee feels the wide scope of the responsibilities of the Director of Nursing fully warrant the change in grade level for this position. The Directors of the Chaplain, Pharmacy and Dietetic Services are also upgraded from GS 15 to GS 16 equivalencies, a new Nurse Schedule grade is established—Director grade—comparable to the Chief Grade in the Physician and Dentist schedule, and the present statutory prohibition on persons eligible to hold Director grade positions is restricted to the Physician and Dentist Schedule so as to permit assignment of a nurse to the new Director grade in large hospitals, all of which changes were recommended by the Veterans Administration.

The reported bill also establishes a new position, Director of Optometry, at the same level as the new Directors of Chaplain, Pharmacy and Dietetic Services positions, in order to provide nationwide coordination of optometric services and improve overall vision care services in DM&S.

SCREENING AND TREATMENT FOR SICKLE CELL ANEMIA

The reported bill authorizes the Veterans' Administration to provide screening examinations for sickle cell trait or anemia to any veteran who is receiving care or medical services under VA auspices or an examination to determine eligibility for VA benefits. The Committee expects that all such veterans in the process of receiving such care, services, or eligibility examinations shall be furnished full information regarding the nature and inheritance of sickle cell trait and anemia and the availability to them on request of screening examinations. Approximately 16.6 percent (123,357) of veterans hospitalized in fiscal year 1971 (approximately 1,000,000) in VA hospitals were black.

Under the new provision, the Veterans' Administration, if it finds that the veteran has the sickle cell trait or anemia, would provide for counseling, if the veteran so requests, as well as any necessary hospital care and outpatient services for a disability arising from such trait or anemia. Such screening examination and counseling would also be provided, if requested, to the veteran's spouse, and the veteran would be given a complete explanation of his eligibility for VA hospital care and outpatient services.

The Committee believes that this new program in the Veterans' Administration will enable a great many veterans and their

spouses who would not otherwise do so to receive, on a voluntary basis, sickle cell screening examinations, counseling and treatment.

It is the committee's understanding that the Veterans' Administration has interpreted provisions in chapter 17 of title 38 *authorizing* the provision of care and services as creating an eligibility entitlement on the part of specified veterans and not as a discretionary authority.

The Committee also expects the Veterans' Administration to provide each veteran receiving VA benefits, as soon as possible, full information regarding the nature and inheritance of sickle cell trait and anemia and where he may receive screening examinations and treatment for the trait or the disease. The Committee contemplates that such information would be disseminated along with regular VA mailings of benefit payments and other communications—such as GI bill checks, pension and compensation checks, home loan applications. NSLI and SGLI insurance premium notices—as well as be included in the basic VA benefits brochure and the material presented to such serviceman upon his discharge.

The reported bill also provides for the Veterans' Administration to take full advantage of the research and research training opportunities available based on the screening examinations and treatments provided.

The Committee notes that the Veterans' Administration is already engaged in a cooperative study in about twelve VA hospitals, each with about 1500 admissions of black patients. This study will evaluate the increased risks of complicating diseases associated with sickle cell trait. Conditions being studied include pulmonary embolism, myocardial infarction, vascular complications of diabetes, pyelonephritis, and post-operative complications. In addition, the VA has approximately 35 individual research projects underway to study the genetic defects and pathologic mechanisms involved in sickling.

With the specific research authority in the reported bill, it is hoped that funds would be forthcoming for the VA to establish a single laboratory devoted to work in genetic modification, a highly technical and expensive, but most promising, area of basic research needed to follow up on the recent scientific breakthrough suggesting that there may be a way to correct the abnormality in the hemoglobin molecule in persons with sickle cell anemia or trait.

The reported bill requires that participation by any person in any sickle cell program (including research) will be wholly voluntary and not prerequisite to eligibility for any VA service, assistance, or benefit, and directs that all information in patient records collected in connection with the program be held confidential except when the patient requests release in writing or when statistical data is compiled in a non-identifying manner.

The reported bill also directs the Administrator to submit to the President in his annual report to the Congress a comprehensive report (including suggestions for any additional proposed legislation) on the administration and funding of these programs. The VA estimates the annual cost of this program to be $2.3 million.

Minimum Average Daily Patient Census

In view of experience in fiscal year 1972, when the Office of Management and Budget imposed an arbitrary ceiling of 79,000 on the average daily patient census (ADPC) in VA hospitals to which the Congress responded by mandating in the FY 1972 and FY 1973 Appropriation Act the maintenance of a minimum of 85,500 ADPC and 97,500 operating beds, and in view of the 80,000 census maximum limitation projected in the fiscal year 1974 budget request, the bill as reported includes a provision requiring the Administrator to provide for (that is, to plan for and assign hospital allowances on the basis of) no less than an average of 98,500 operating beds and an average daily patient census in such beds of no less than 85,500 in any fiscal year; that to *maintain* such a census at no less than 82,000 in any such fiscal year.

An analysis of the VA average daily patient census for the current fiscal year shows that it will be approximately 82,000, although for the month of January it was 84,156 (1,000 higher than in January of 1972). At the same time, in December of 1972, there were 32,237 veterans on VA waiting lists or scheduled for hospital admission (determined to need care no sooner than 30 days).[1] Thus, in the event that the new ambulatory care authorities in the bill do free some VA hospital beds, there would seem to be ample veteran patients needing hospitalization to fill them.

Nevertheless, the VA FY 1974 budget is predicated upon an average daily patient census of 80,000, and there is every indication that OMB—as it attempted to do for FY 1972—will force the VA to provide station allowances to hospitals based upon such an arbitrarily reduced census. The effort of this would probably be to reduce the actual census realized in FY 1974 to 78,000, since this has been the history since 1962—the *actual* census achieved for a fiscal year being about 2,000 lower than the *projected* census in that year's budget request.

In addition, in his October 27, 1972, Memorandum of Disapproval of H.R. 10880, the predecessor of S. 59, the President declared his strategy to "sharply reduce the Government's direct role in the provision of [health care] services." In order to counteract such strategy. It is necessary for Congress to mandate a particular census minimum. However, it is recognized that such a minimum would be counterproductive if it set a minimum figure at too high a level. Thus, the bill as amended in Committee alters the language so that the 85,000 figure will be used for budgetary purposes planning, and projections and the determinations of individual hospital station allocations, rather than being the minimum average census figure that must be *maintained* in the fiscal year.

At the same time, in order to permit the census figure to "float freely" at approximately the level anticipated for FY 1973, the reported bill requires that such average daily census be *maintained at no less than the 82,000 figure projected for fiscal year 1973.*

The Committee was reluctant to take this step and did so only because it feared the imposition for FY 1974 of another arbitrary ADPC maximum by the Office of Management and Budget.

The following table shows the average daily patient census and number of operating beds cumulatively by month for fiscal year 1971, fiscal year 1972 and the first seven months of fiscal year 1973.

TABLE IV.—VA HOSPITAL CARE OPERATING BEDS AND AVERAGE DAILY PATIENT CENSUS

	Operating beds		Average daily census	
	Month	Cumulative fiscal year	Month	Cumulative fiscal year
Fiscal year 1971:				
1970:				
June	102,354		83,308	85,547
July	100,692	101,523	83,019	83,019
August	100,638	101,228	83,471	83,265
September	100,699	101,096	83,985	83,491
October	100,689	101,014	84,624	83,788
November	100,623	100,949	84,710	83,962
December	100,402	100,871	82,473	83,746
1971:				
January	96,899	100,375	86,928	84,179
February	96,649	99,961	87,667	84,583
March	96,649	99,629	86,226	84,776
April	96,692	99,362	83,467	84,651
May	96,645	99,386	81,584	84,367
June	96,685	99,178	79,865	84,002
Fiscal year 1972:				
1971:				
July	95,857	96,271	78,760	78,760
August	95,707	96,083	79,477	79,118
September	95,596	95,961	79,567	79,266
October	96,728	96,115	79,992	79,454
November	96,950	96,254	80,932	79,748
December	97,136	96,380	79,111	79,638
1972:				
January	96,990	96,456	83,162	80,146
February	95,982	96,403	83,662	80,564
March	96,073	96,370	82,890	80,826
April	96,189	96,354	82,090	80,950
May	96,091	96,332	81,305	80,983
June	96,593	96,352	80,837	80,971
Fiscal year 1973:				
1972:				
July	98,152	97,373	81,213	81,213
August	98,216	97,654	82,211	81,724
September	98,187	97,787	82,027	81,835
October	98,297	97,889	81,982	81,879
November	98,323	97,961	81,944	81,893
December	98,297	98,009	79,720	81,526
1973:				
January			84,156	

[1] The Committee is aware of the somewhat elevated nature of this total due to certain ambulatory care pilot projects being carried out.

Structural Safety of VA Medical Facilities

The tragic consequences of a number of natural disasters within recent years has pointed to the need for stricter safety standards in the construction and maintenance of Veterans Administration facilities. There were the tragic losses of lives due to earthquake damage at San Fernando, Calif., closely followed by a severe tornado at Fayetteville, N.C., in early 1971. In addition, considerable numbers of veterans lost personal effects at VA facilities at Gulfport and Biloxi, Miss., as a result of damage caused by Hurricane Camille. The Committee substitute provides that the Administrator shall prescribe construction standards on a State or regional basis for each VA facility, such standards to be based on a survey of pertinent State and local ordinances, building codes, climatic and seismic conditions, and other factors, with the purpose of assuring that all hospitals, domiciliaries, and other medical facilities of the Veterans Administration will be made resistant to fire, earthquake and other natural disasters. Through such measures, the Committee hopes that future such tragedies can be prevented.

Miscellaneous

The bill as reported includes two provisions requested by the administration in the 92nd Congress and still generally supported in this Congress: To authorize the Administrator to make contributions to local authorities for the construction of traffic controls, road improvements or other devices adjacent to VA medical facilities when deemed necessary for safe access—a provision included in the fiscal year 1973 VA appropriation item; and to increase the rates for VA payments to State veterans hospitals and nursing homes and to make such payments in the case of veterans of the post-Korean conflict.

Cost Estimates Pursuant to Section 252 of the Legislative Reorganization Act of 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510, 91st Congress), the Committee has included the VA estimate of the following costs for carrying out the provisions of the Proposed Act in fiscal years 1974 through 1978:

TABLE V.—SECTION-BY-SECTION COST CHART FOR S. 59, 93d CONG.

Section and provision	Fiscal year cost (in millions)				
	1974	1975	1976	1977	1978
TITLE I					
101. (a) Definition of "VA facility" changed to reflect long-standing interpretation	(1)	(1)	(1)	(1)	(1)
Contract care expanded to include wives, widows and child	21.3	21.4	21.5	22.9	24.4
(b) Mental health services and training to certain dependents	10.0	10.5	11.0	11.5	12.0
(c) Home health services to veteran or dependent	(2)	(2)	(2)	(2)	(2)
102. Hospital or nursing home care for:					
Peacetime vets	7.9	8.5	9.0	9.7	10.4
Wives, widows and children	12.9	13.8	14.8	15.8	16.9
103. Outpatient care to obviate need for hospitalization	(1 3)	(1)	(1)	(1)	(1)
80 percent s/c/disabled	1.6	1.7	1.8	1.9	2.0
104. (a) Direct admission of military to community nursing home	(2)	(2)	(2)	(2)	(2)
(b) Nursing home care for dependents	(2)	(2)	(2)	(2)	(2)
(c) Nursing home standards	(2)	(2)	(2)	(2)	(2)
(d) Direct admission to community nursing home for s/c condition	4 11.2	12.7	13.5	13.9	14.2
105. U.S. vets nursing home care in Philippines	(1)	(1)	(1)	(1)	(1)
106. Earthquake—Reimbursement for loss of personal effects	(2)	(2)	(2)	(2)	(2)
107. Reimbursement for emergency medical care	(1)	(1)	(1)	(1)	(1)
108. Grants to Philippines	2.1	2.1	2.1	2.1	2.1
109. Sickle cell anemia	2.3	2.3	2.3	2.3	2.3
TITLE II					
201. Expansion of D.M. & S. Mission	(1)	(1)	(1)	(1)	(1)
Staff-patient ratio	(2)	(2)	(2)	(2)	(2)
202. 2 additional assistant CMD's	.089	.094	.099	.104	.110
Change titles of service heads	(1)	(1)	(1)	(1)	(1)
203. Salary rate D.M. & S. increase salary range for service heads	.063	.606	.0074	.07	.780
Nurse, premium pay	26.7	29.2	31.7	34.4	37.3
204. Personnel Administration	(1)	(1)	(1)	(1)	(1)
205. Technical changes	(1)	(1)	(1)	(1)	(1)
206. Temporary full-time D.M. & S. appointments	(1)	(1)	(1)	(1)	(1)
Central administration of interns and residents	(1)	(1)	(1)	(1)	(1)
207. Malpractice protection for VA medical personnel	(1)	(1)	(1)	(1)	(1)
208. Clarification of authority to contract for scarce medical specialists	(1)	(1)	(1)	(1)	(1)
301. (a) Provide for 98,500 beds and 85,500 ADPC; maintain 82,000 ADPC and 8,000 nursing beds	(2)	(2)	(2)	(2)	(2)
(b) Construction standards for fire and earthquake	(2)	(2)	(2)	(2)	(2)
(c) Contribute to local governments for traffic controls and roads	(2)	(2)	(2)	(2)	(2)
302. Relinquishment of legislative jurisdiction	(1)	(1)	(1)	(1)	(1)
303. Expand sharing authority	(1)	(1)	(1)	(1)	(1)
401. VA office in Manila		.975	.975	.975	.975
402. Telephones for nonmedical directors	.003	.003	.003	.003	.003
403. (a) Increase per diem rates to State homes	5.0	5.3	5.5	5.6	5.6
(b) Increase grants to State homes	2.7	2.7	2.7	2.7	2.7
Total (in millions)	$103.85	$111.3	$117.04	$123.95	$131.06

[1] No cost.
[2] No estimate.
[3] This estimate is based upon a plan of implementation whereby any costs could be absorbed mostly through a utilization of funds which would otherwise be needed for the obviated hospitalization.
[4] This estimate represents refined data indicating a substantial increase in new admissions over those anticipated from in-VA-facility admissions.

Note.—Estimated 5-year total: $587.20.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes by presence or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report favorably to the Senate S. 59 as reported from Subcommittee.

Yeas—9

Vance Hartke, Herman E. Talmadge, Jennings Randolph, Harold E. Hughes, Alan Cranston, Clifford F. Hansen, Strom Thurmond, Robert T. Stafford, and James A. McClure.

Nays—0

SECTION-BY-SECTION ANALYSIS OF S. 59 AS REPORTED

Section 1 establishes the title of the proposed Act as "The Veterans Health Care Expansion Act of 1973."

TITLE I—HOSPITAL, DOMICILIARY, AND MEDICAL CARE BENEFITS

Section 101: Subsection (a) amends clause (C) of present section 601(4) of title 38, regarding the Administrator's contract authority for providing hospital care, along the lines recommended in the administration bill proposed in the 92d Congress (section 101 of S. 1924) to delete the qualification that contract care for persons suffering from service-connected disabilities or disabilities for which they were discharged or released from the service be provided "only in emergency cases." Deletion of this language confirms existing practice. The clause also adds a new subclause (iv) to clause (C) authorizing contract hospital care, where appropriate VA and other Federal facilities are not available, for the wife and child of a veteran with a total and permanent service-connected disability and the widow and child of a veteran who died as a result of a service-connected disability. This contract authority is concurrent with the authority provided the VA to provide hospital care in its own facilities to such persons, in new subsection (d), added to present section 610 of title 38 by section 102(3) of the bill as reported.

The VA estimates the first-year cost of contract care for dependents will be $21.3 million.

Subsection (b) of section 101 amends paragraph (5) of present section 601 of title 38, which defines "hospital care", to reflect the expanded eligibility for hospital care provided for in subsection (a) and section 102(3) of the bill as reported. In addition, a new clause (B) is added in paragraph (5) in order to include within the definition of "hospital care" the provision of mental health services, counseling, training, and (on the terms set forth in present section 111 of title 38) necessary transportation and subsistence expenses for the members of the immediate family of VA patients when such services and expenses are necessary or appropriate to treat and rehabilitate the VA patient effectively.

The VA estimates the first-year cost of this provision to be $10 million.

Subsection (c) of section 101 amends paragraph (6) of present section 601 of title 38, which defines "medical services" (ambulatory and out-patient care), to provide specific authority for the provision of home health care services.

The VA has not been able to estimate the cost of this provision.

Section 102 makes a series of amendments to present section 610 of title 38, which specifies eligibility for hospital and domiciliary care.

Clause (1) amends present subsection (a) to make nursing home care an inherent part of VA hospital care, thereby authorizing direct admission to VA directly-run nursing homes for all section 610 (as amended by section 102(4) of the bill as reported) beneficiaries. The effect of this new clause and the new section 610(e), added by clause (4) of section 102 of the bill as reported, is to authorize direct admission to VA directly-run nursing homes, eliminating the requirement that admission to such nursing homes must be made only for patients hospitalized in VA facilities. This new language would not authorize such direct admission to community nursing homes. (See section 104 of the proposed bill for amendments to community nursing home authority.)

Clause (2) amends present clause (1)(B) of subsection (a) to make any veteran, peace-time or war-time, eligible for hospital care for a non-service-connected disability if he is unable to defray the necessary hospital expenses, rather than only war veterans at present. This provision would provide new eligibility for approximately 150,000 peacetime veterans (generally those whose service ended prior to April 6, 1917, and those who served between November 12, 1918 and December 6, 1941, and those who served between January 1, 1947 and June 27, 1950). The VA estimates the first-year cost of this provision as $7.9 million.

Clause (3) replaces the present subsection (c), regarding the provision of medical services to hospitalized veterans for non-service connected disabilities for which they were *not* hospitalized. The revised subsection eliminates the requirements that the Administrator make a determination in each such instance that the treatment of the non-service-connected disability would be in the veteran's interest, would not prolong his hospitalization, and would not interfere with

the furnishing of hospital services to other veterans. These conditions are needlessly restrictive on professional medical judgment or redundant of such judgment. The revised subsection, in accordance with what the VA advises is actual practice in most instances, premises the provision of such medical services only upon the willingness of the veteran and a finding that such services are reasonably necessary to preserve his or her health. No additional costs will result from this provision.

Clause (4) adds new subsections (d) and (e) to present section 610 of title 38, as follows:

New Subsection (d) provides for the furnishing of hospital care, in accordance with regulations prescribed by the Administrator, to the wife and child of a veteran with a total and permanent service-connected disability and the widow and child of a veteran who died from a service-connected disability, as long as the provision of such care does not interfere with the furnishing of hospital and domiciliary care to eligible veterans. This eligibility for hospital care under this new subsection would, by virtue of the new subsection (e) also added to the present section 610, include eligibility for nursing home care in both VA directly-run nursing homes and (under present section 620 of title 38) community nursing homes. (A companion authority to contract for hospital care for such persons is added to present section 601(4)(C) by section 101(a) of the bill as reported.)

This new eligibility would extend hospital and nursing home care benefits to approximately 282,000 persons not presently entitled to other Federal health benefits, such as under Medicare, Medicaid and Military Medical Benefits programs (56,100 wives and 78,000 children of veterans with total and permanent service-connected disabilities (total: 134,100) and 57,600 widows and 91,000 surviving children of veterans who died of service-connected disabilities (total: 148,000). The first year cost of this new eligibility is estimated by the VA to be $12.9 million.

New Subsection (e) provides that in no event may nursing home care under chapter 17 of title 38 (as added to basic hopital care eligibility in present section 610 by clause (1) of section 102 of the bill as reported) be provided in other than VA directly-run nursing homes except insofar as community nursing home care under contract is expressly authorized under present section 620, as amended by section 105 of the bill as reported.

Section 103 amends present section 612 of title 38 by replacing present subsection (f), regarding the provision of medical services for the non-service-connected disabilities of certain veterans. Presently, such out-patient and ambulatory care for non-service-connected disabilities may be provided only on a pre-hospital or post-hospital care basis or to any war veteran with a total and permanent service-connected disability. The revised subsection (f) includes for the first time the language "on an outpatient or ambulatory basis" and makes the provision applicable to service-connected as well as non-service-connected disabilities (thus, a veteran unable to defray the necessary expenses of hospitalization who contended his condition was service-connected and did not then require hospitalization could be provided outpatient care if his condition met the "obviate" criterion described in item (1) below, without waiting for adjudication of his service-connected claim). The revised subsection also makes the following changes with respect to this authority: (1) authorizes (along lines proposed in the administration bill proposed in the 92d Congress—section 102 of S. 1924) outpatient care to such veterans when necessary to obviate the need of . . . hospital admission"; (2) authorizes such outpatient care for any veteran, peacetime or war-time, with an 80% or more rated service-connected disability; and (3) authorizes such outpatient care for any person eligible for hospital care, which, under the hospital care eligibility provisions in the revised subsection 610, newly authorizes outpatient care under the terms of revised subsection (f) for peace-time veterans, the wives and children of veterans with total and permanent service-connected disabilities and the widows and children of veterans who died from service-connected disabilities.

Under the new "necessary to obviate" hospital care standard, a veteran with a non-service-connected disability would still be required to complete an oath of inability to defray the necessary expenses of hospital care, pursuant to present section 622 of title 38. According to the VA report on S. 59, this provision would entail no additonal expenditures.

It should be noted that the VA has contended that the absence of the limitation in present section 612 which appears in section 610(a) ("within the limits of Veterans' Administration facilities") provides authority to carry out the "furnishing" of care under section 612 by fee or by contract. Unlike S. 2354, the bill as reported has not provided explicit authority for such contract care. The Committee clearly intends that the Administrator have authority to furnish by contract out-patient care for wives, widows, and children now eligible by virtue of revised section 610(a).

This revised subsection (f) would increase those eligible for pre-hospital, post-hospital, and "obviate" hospitalization VA outpatient care by approximately 846,000 persons by including 150,000 peace-time veterans, 282,000 wives, widows, and children, and 204,808 additional veterans with 80% or more service-connected disabilities.

The VA has been unable to estimate the costs of this new outpatient care eligibility when applied to those individuals newly eligible for care such as the peace-time veterans, the wives and children of those veterans with total and permanent service-connected disabilities or the widows and children of veterans who died from service-connected disabilities. The VA estimates the first-year costs of providing outpatient care for those veterans with a service-connected disability of 80% or more to be $1.6 million.

Section 104.—Subsection (a) amends subsection (a) of present section 620 of title 38, regarding transfer of VA hospital patients to community nursing homes, so as to authorize direct admission (without immediately prior VA hospitalization as is now required) to community nursing homes at VA expense of servicemen from military hospitals if the Service Secretary concerned determines and the Administrator agrees that the serviceman has received maximum hospital benefits and requires nursing home care. The VA estimates no material cost increase as a result of this provision.

Subsection (b) *of section 104* is purely technical in order to achieve consistency of drafting style.

Subsection (c) *of section 104* amends subsection (b) of present section 620 of title 38, requiring VA standards to be established for community nursing homes to which eligible veterans are transferred, by adding a new sentence to require the Administrator to make copies of VA prescribed standards and inspection reports available to all Federal, state, and local agencies charged with licensing or otherwise regulating or inspecting such institutions (this is done only sporadically now).

Subsection (d) *of section 104* adds a new subsection (d) to present section 620 of title 38 to authorize direct admission of a veteran to community nursing homes at VA expense of veterans requiring nursing home care for service-connected disabilities after the need for such care is determined by a physician (employed by the VA or performing under contract or fee arrangement) based upon an examination of the veteran by such physician. A comparable provision was supported by the VA in its March 28, 1972, report on the Committee substitute for S. 2354 in the 92d Congress, except that the VA provision would have excluded (apparently inadvertently) application of this new procedure in Hawaii and Alaska where the VA does not maintain medical facilities or employ physicians. The revised provision also makes clear that in such states as well as in geographical areas where no VA physician employee is stationed, the examination and determination may be conducted on behalf of the VA by a physician under a contract or fee arrangement. The VA estimates that this provision would entail a first-year cost of $11.2 million.

Section 105:—Subsection (a) amends present section 624 of title 38, regarding hospital care and medical services abroad, by adding a new subsection (d) making U.S. veterans residing in the Philippines eligible for the same per diem payment for nursing home care as would be made available to Filipino veterans in the Philippines by the amendment to present section 632 in section 107 of the bill as reported. This new eligibility should entail no appreciable cost.

Subsection (b) *of section 105* amends the catchline for present section 624 to reflect the revision contained in subsection (a).

Section 106:—Section (a) amends present section 626 of title 38, regarding VA reimbursement to VA patients due to fire loss, so as to cover certain personal property loss by earthquake or other natural disaster (flood, windstorm). The VA has produced no cost estimate for this provision, which section 501 of the bill as reported makes retroactive to January 1, 1971, in order to cover the San Fernando, California, earthquake and the Fayetteville, North Carolina, windstorm, both of which occurred in February, 1971, and occasioned considerable patient property loss. The VA has been unable to estimate the costs of this provision.

Subsection (b) *of section 106* amends the catchline for present section 626 to reflect the revision contained in subsection (a).

Subsection 107:—Subsection (a) amends present subchapter III (Miscellaneous Provisions) of chapter 17 of title 38 by adding a new section 628 to codify a VA regulation providing for reimbursement of the reasonable value of hospital care and medical services provided to veterans entitled to VA medical care for service-connected disabilities in an emergency when VA facilities are not readily available. No additional cost should be occasioned by this provision.

The bill as reported also includes in the reimbursement provisions of the new section authority for reimbursement (without prior authorization) for emergency care provided for any disability (whether or not it could be demonstrated to be service-connected) of a veteran with a 100 percent permanent and total service-connected disability. Under present law, such veterans are entitled to full VA medical care, in- and out-patient, for any disability, either directly in a VA facility or by fee or contract. However, it is not clear that the VA would interpret its contract authority (which itself is not crystal clear in present law—the bill as reported makes it explicit) to permit reimbursement after expenditures had been made in an emergency situation where no VA hospital or clinic is accessible. And the enactment of section 628, without inclusion of authority to make such reimbursement, might be interpreted to rule out such an expansive interpretation.

The amendment would close this small gap in coverage for the 100% service-connected disabled (it is retroactive to January 1, 1971, to cover any meritorious claims aris-

ing since the start of the 92nd Congress). It is not contemplated that appreciable additional expense would be entailed since such so severely disabled veterans tend to remain accessible to VA hospitals for treatment.

Subsection (b) of the new section makes clear the Administrator's authority to make payment directly to the provider of the services rather than to the veteran treated.

Subsection (b) *of section 107* amends the table of sections at the beginning of chapter 17 of title 38 to reflect the revisions and additions in sections 106 and 107 of the bill as reported.

Section 108:—Subsection (a) amends sections 631 and 632 of title 38, regarding grants to and agreement with the Philippines, by striking out these sections and inserting in lieu thereof new sections 631 and 632. The VA estimates the first year cost as $2.1 million and the same for each of the next five fiscal years.

New section 631 authorizes the President to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and certain new Philippine Scouts for service-connected disabilities and for non-service-connected disabilities under certain conditions.

Subsection (a) *of the new section* provides that the President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on July 1, 1973, and ending on June 30, 1978, under which the United States—

(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided in the Veterans' Memorial Hospital (or by contract or otherwise) in accordance with the conditions and limitations applicable generally to beneficiaries under present section 612 of title 38, for Commonwealth Army veterans and new Philippine Scouts the Administrator determines to need such hospital care or medical services for service-connected disabilities (presently there is no contract care authority for new Philippine Scouts);

(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans and new Philippine Scouts who enlisted before July 4, 1946, the Administrator determines need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

(3) may provide for the payment of travel expenses pursuant to present section 11 of title 38 for Commonwealth Army veterans and new Philippine Scouts in connection with hospital care or medical services furnished them;

(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of title 38, for any Commonwealth Army veteran or new Philippine Scout determined to need such care at a per diem rate not to exceed 50 percent of the hospital per diem rate established pursuant to the new clause (6) of section 632 (this is a new authority):

(5) may provide that payments for hospital care and medical services provided to Commonwealth Army veterans and new Philippine Scouts or to U.S. veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator; and also is authorized to furnish, through the revolving supply fund, pursuant to present section 5011 of title 38, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments;

(6) will provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(7) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

Subsection (b) *of the new section* provides that the total payments under this modified agreement shall not exceed $2 million for any one fiscal year during such period, of which sum not to exceed $250,000 shall be for the purposes of payments under new clause (4).

Subsection (c) *of the new section* provides that available beds, equipment, and other facilities at the Veterans Memorial Hospital can be made available at the discretion of the Republic of the Philippines for other persons subject to (1) priority of admission and retention in the hospital of Commonwealth Army veterans or new Philippine Scouts needing hospital care for service-connected disabilities, and (2) the use of available facilities on a contract basis for hospital care or medical services for persons eligible therefor from the VA.

Subsection (d) *of the new section* provides for an authorization of appropriations each fiscal year during the six years beginning July 1, 1972, and ending June 30, 1978, of (1) $50,000 for VA grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel assigned to (as compared to present section 632(e)) the hospital and (2) $50,000 for VA assistance to the Republic of the Philippines in replacing and upgrading equipment and rehabilitating the hospital physical plant under terms and conditions prescribed by the Administrator. Appropriations for purposes of clause (2) are to remain available until expended. This provision would enable the VA to obtain equipment whose value may exceed $50,000 by allocating 2 or more years funding for such purchase.

Subsection (b) *of section 108* amends the table of sections at the beginning of chapter 17 of title 38 to reflect changes made in present sections 631 and 632 of title 38 by subsection (a).

Subsection (c) *of section 108* provides that nothing in this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Philippines and the Government of the United States resulting from Public Law 89-612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 612 of title 38, in effect on the day before the date of enactment of this section.

Section 109:—Section (a) adds to chapter 17 of title 38 a new subchapter VI, "Sickle Cell Anemia". This provision is similar to provisions in section 5 of S. 2676, the proposed "National Sickle Cell Anemia Act", which passed the Senate on December 8, 1972. This section was deleted from the version as it passed the House (incorporating the text of H.R. 13592) on March 22, 1972, and this deletion was agreed to by the Senate on April 17, 1972, in returning the bill to the House with an amendment. The Act is now P.L. 92-294.

Section 651 in the new Subchapter authorizes the Administrator to carry out a comprehensive program of providing sickle cell anemia screening, counseling and treatment, and dissemination of information under the provisions of chapter 17. Under these provisions, the VA would offer to all veterans receiving hospital or domiciliary care or medical services, and those receiving benefit eligibility examinations, screening examinations to detect those persons with the sickle cell trait or with sickle cell anemia; ensure that all veterans' benefits recipients receive full information as soon as possible regarding sickle cell trait or anemia and where they may receive screening and treatment for such trait or disease; provide appropriate counseling on a voluntary basis to a spouse of an eligible veteran, who was found to have the sickle cell trait; and advise every black veteran receiving outpatient or inpatient VA care or undergoing a VA physical examination about the availability of voluntary sickle cell anemia screening under the new Subchapter. The VA estimates the cost of these programs over a five-year period to be $10 million.

Section 652 in the new Subchapter, authorizes the Administrator to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under the new subchapter.

Section 653 in the new Subchapter:—Subsection (a) specifies that any person who participates in any of the sickle cell anemia programs under the new subchapter (including the research program by cross reference in new section 652) shall do so only on a voluntary basis, and that such participation shall not be a condition for receiving service or assistance from programs to which the participant may otherwise be entitled under title 38.

Subsection (b) *of the new section* directs the Administrator to ensure the confidentiality of all information and patient records obtained from sickle cell anemia programs conducted under the new subchapter.

Section 654 in the new Subchapter directs the Administrator to include in the annual report to the Congress required by title 38, a comprehensive report on the administration of the new Subchapter, including recommendations for additional legislation as the Administrator deems necessary.

TITLE II—AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

Section 201 amends present section 4101 of title 38, regarding functions of the Department of Medicine and Surgery (DM&S), by revising present subsection (b) to expand the primary function of the VA Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower in order to meet national needs in addition to meeting the hospital needs of veterans, to the extent feasible without interfering with the medical care and treatment of veterans. In carrying out this expanded function, the Administrator is directed to develop and carry out a program of health manpower education and training, including the development and evaluation of new health careers, interdisciplinary approaches and career advancement opportunities, and to carry out a major program for the recruitment, training *and employment* of veterans with medical military occupation specialities (MOS) as physicians' assistants, dentists' assistants, and other medical technicians. The VA is directed to advise all veterans and servicemen about to be discharged with such MOS's of the opportunities for training and employment in the VA. In implementing these new programs, the VA is directed to act in cooperation with such health training institutions as the Administrator deems appropriate. The VA estimates no additional cost resulting from this provision.

Section 201 also adds a new subsection (c) to present section 4101 which directs the Comptroller General of the United States to

select for every VA hospital an optimum index hospital(s) in the area for staff-to-patient ratios for each VA hospital service (such as surgery) and directs the VA to achieve the index ratio for each such service within three years of enactment of the proposed Act. The Administrator is directed to cooperate fully with the GAO. An annual report is required from the Comptroller General not more than 60 days after the close of each fiscal year showing the established index ratios for each VA hospital service and the extent of progress toward achieving these ratios.

Section 202 amends present section 4103(a) of title 38, which specifies the personnel in the Office of the Chief Medical Director, to make changes included in the administration bill proposed in the 92nd Congress (section 202 of S. 1924); providing in paragraph (4) of the present subsection authority for appointment of two additional (six authorized now) Assistant Chief Medical Directors (ACMD's) (VA estimated cost $89,000 per year) not more than two of whom may be lay administrators (the administration proposal in the 92nd Congress, due to a technical error, used the words "at least"), and in paragraph (7) of the present subsection, upgrading the Chief Pharmacist and Chief Dietician to Directors of Services and adding a new position "Director of Optometry" under the Chief Medical Director. (Under the new Section 4103 Schedule in section 206 of the reported bill, all three positions would be compensated at the same level—$31,203 minimum to $39,523 maximum.)

Section 203.—Clause 1 revises subsections (a) and (b) of present section 4107 of title 38, establishing title 38 DM&S grades and pay scales (for DM&S officers; physicians, dentists, and nurses), along the lines in the administration bill proposed in the 92nd Congress (section 203 of S. 1924). Basically, the amendment reflects current practice under the three recent Federal pay increases. In addition, the Director of Nursing is upgraded to the level of Medical Director grade (G.S. 17)—the same as Directors of DM&S Services (such as Psychiatry); the Directors of the Chaplain, Pharmacy and Dietetic Services are upgraded from the equivalent of G.S. 15 to 16; and a new Nurse Schedule grade is established—Director grade comparable to the Chief Grade in the Physician and Dentist schedule, all recommended by the VA (at an annual cost estimate of $63,000). Establishment of the Director grade is intended to recognize the difficult managerial and professional responsibilities inherent in the position of Chief Nurse in the very largest and most complex VA hospitals, and in the position of the top program officials in the headquarters Nursing Service in the Department of Medicine and Surgery. Such responsibilities inherent in other chief nurse and managerial nurse positions can be similarly recognized by a pay increase as appropriate, by use of existing grades in the Nurse Schedule.

The newly created position of Director of Optometry is paid on the same level as the Directors of the Pharmacy and Dietetic Services; and the prohibition in subsection (b)(2) of the present section 4107 on persons who are eligible to hold the director grade (directors of VA hospitals, domiciliaries, centers, or independent outpatient clinics) is made applicable only to the Physician and Dentist Schedule so as to carry out the purpose of the new Director grade in the Nurse Schedule—for the Chief Nurse in large hospitals—as recommended by the Administration.

Clause 2 of section 206 adds at the end of present section 4107 of title 38, regarding grades and pay scales, new subsections as follows:

New subsection (d) specifically applies to title 38 salaries the limitations—salaries in excess of $36,000 limited to $36,000 until pay for level V of the Executive Schedule is raised—of 5 U.S.C. 5308. A comparable provision was included in the administration bill (section 203(b) of S. 1924) proposed in the 92d Congress.

New subsection (e) establishes overtime and premium pay benefits for VA nurses (including intermittent and part-time nurses) generally comparable to those now available to General Schedule and Wage Board employees. Similar provisions were included in the administration bill proposed in the 92d Congress (section 204 of S. 1924). Variations are noted in the description that follows:

Paragraph (1) of the new subsection establishes the basic eligibility for specified pay in addition to basic compensation.

Paragraph (2) of the new subsection (Night Duty):—10% of the employee's basic rate added for each hour between 6 p.m. and 6 a.m. except that if at least four hours of a tour (generally 8 hours of work per full tour) fall within those hours of the night tour (for example a 3:30 p.m. to 12 midnight tour), all hours of that tour would be paid at the extra 10% rate. This four-hour rule is now applicable to wage board, but not G.S. employees. (It should be noted that the administration proposal in the 92d Congress seemed to exclude the night nurse working overtime from the additional 10%—i.e., 150% instead of 160% by use of the language "for each hour of service not exceeding eight hours," whereas the provision in the reported bill would clearly provide for 160%, as do present G.S. authorities.)

Paragraph (3) of the new subsection (Sunday Duty):—25% of the employee's basic rate added for each hour worked on a tour any part of which falls between midnight Saturday and midnight Sunday. The administration proposal in the 92d Congress, apparently this time following G.S. precedent, would clearly preclude 175% for Sunday overtime, whereas the reported bill provision would allow it by deleting "which is not overtime work" and the same eight-hour tour limitation discussed in new paragraph (2) above.

Paragraph (4) of the new section (Holiday Duty):—100% of the employee's basic rate added for each hour worked on a Federally-declared holiday. For overtime work on a holiday, in conjunction with paragraph (7), the full 100% additional would be paid, rather than only 50% additional for holiday overtime, which is the incongruous and inequitable effect—reducing pay when the nurse goes on overtime on a holiday—proposed by the administration and paid under the G.S. A provision has been added to specify that a nurse required to perform any work on a holiday shall receive at least two hours double pay (now provided in 5 U.S.C. 5546(c) for G.S. employees).

Paragraph (5) of the new section (Overtime Duty):—150% of the employee's basic rate used for computation for each hour in excess of eight hours per day or forty hours per administrative workweek, but the basic rate cannot be above the minimum rate of Intermediate grade in the Nurse Schedule (equivalent of G.S. 11—although G.S. 10, Step 1, is the limiting salary base under the General Schedule; overtime does not begin until at least 15 minutes is worked; compensatory time off is not permitted as it is under the G.S. system; and any new work on a non-work day or call-back shall be a minimum of time-and-a-half for two hours. This whole provision is identical to the original administration proposal in the 92nd Congress.

Paragraph (6) of the new subsection specifies the basis for computing the basis hourly rate (dividing annual salary by 2080). This is identical to the administration bill proposed in the 92nd Congress.

Paragraph (7) of the new subsection makes clear that the additional pay provisions of new paragraphs (2) through (5) are to be applied independently and consecutively, except that holiday overtime and holiday non-overtime work are both paid the same (200%). There was no comparable administration provision proposed last Congress.

Paragraph (8) of the new subsection (On Call):—10% of the employee's basic overtime rate (150% of the employee's basic rate not to exceed Intermediate grade, Step 1) added for each hour officially scheduled on call. There is no comparable provision in the administration bill or G.S. now, although serious consideration has been given to it. A survey of available data on large city hospital pay practices for on call time indicates the proposed provision in the Committee substitute is in step with private and community practice in this area.

Paragraph (9) of the new subsection provides that additional pay under this new section will not count as basic compensation for lump-sum leave payments, severance pay, and other benefits relating to basic compensation. There was an identical provision in the administration bill as a paragraph (7) in a new subsection (d) to be added to present section 4107.

The VA estimate of the first-year cost for premium and differential pay is $26.7 million.

Section 204 amends present section 4108 of title 38 to clarify the hours and conditions of employment and leaves of absence for physicians, dentists, and nurses appointed on a full-time basis.

New subsection (a) directs the Administrator to prescribe, by regulation, such hours and conditions of employment and leaves of absence, and lists provisions regarding permissible outside employment by physicians, dentists and nurses appointed in the Department of Medicine and Surgery—

Clause (1) of the new subsection would prohibit such personnel from assuming responsibility for the medical care of any patient other than a patient admitted for treatment at a VA facility, except where, with the approval of the Chief Medical Director, such responsibilities are assumed to assist communities or medical practice groups to meet medical needs which would otherwise not be available (for a period limited to 6 months, with extension for an additional six months approved specifically by the Chief Medical Director). The Chief Medical Director would delegate to the station director the responsibility for granting an exception so that consulting services for up to six months would be permissible when necessary to provide scarce expertise to help the non-VA community to provide otherwise unavailable services.

Clause (2) of the new subsection would prohibit such personnel from teaching or providing consultative services at affiliated institutes where such activities would, because of their nature or duration, conflict with responsibilities under title 38.

Clause (3) of the new subsection would prohibit such personnel from accepting payment under reimbursement programs established under subchapter XVIII (Medicare) or XIX (Medicaid) of chapter 7 of title 42, or under chapter 55 of title 10, for professional services rendered while actually carrying out responsibilities under title 38.

Clause (4) of the new subsection would prohibit such personnel from accepting any payment or per diem for travel performed in the course of carrying out responsibilities under title 38, other than as provided for in section 4111 of title 5.

Clause (5) of the new subsection would prohibit such personnel from requesting or permitting any payment on his behalf for insurance insuring him against malpractice claims arising in the course of carrying out responsibilities under title 38 or for dues or fees for membership in medical or dental societies or related professional associations,

except where such payments constitute a part of his remuneration for professional responsibilities permitted under section 4108, other than those carried out under title 38.

Clause (6) of the new subsection would prohibit such personnel from performing any professional services, in the course of carrying out responsibilities under title 38, for the purpose of generating money for any fund or account maintained by an affiliated institution for the benefit of such institution, or for his personal benefit, or both. Where such funds or account may have been established prior to the effective date of the new subsection (a), certain requirements and limitations are specified.

Subsection (b) of section 204 amends the table of sections at the beginning of chapter 73 of title 38 to reflect the revisions contained in subsection (a).

Section 205. Subsection (a) amends present section 4109 of title 38, regarding retirement rights, to update the statutory reference in view of the codification of title 5, United States Code.

Section 205. Subsection (b) is a technical clarifying amendment.

Section 206: Clause (1) amends present section 4114(a) of title 38, regarding temporary, full-time appointments of health personnel, to raise the time limit of such appointments from 90 days to one year for health personnel generally (except trainees), just as it is for physicians, dentists, and nurses. This provision was included in the administration bill (section 205 of S. 1924 proposed in the 92nd Congress).

Clause (2) of section 206 amends present section 4114(b) of title 38, regarding residency and internship appointments, by adding a new paragraph (2) defining the term "intern" and a new paragraph (3) providing for central administration of internships and residences, in a form virtually identical to that which was first introduced by Senator Cranston (S. 2623) and passed by the Senate as a part of S. 9634, both 91st Congress. This provision was proposed by the administration and passed the House in H.R. 10879 in the 92nd Congress with a VA estimate of no additional cost.

Clause (3) of section 206 adds a new subsection (c) to present section 4114 of title 38 to require that full-time training programs for veterans to be physicians and dentists' assistants be treated as a full-time institutional program ($220 per month for a single veteran), the same as are internship and residency training programs (by virtue of an administrative ruling) under chapter 31, 34 or 35 for purposes of GI bill benefits. Measurement of such training program as less than full-time under the GI bill would be permissible only when the combined classroom (and other formal instruction) and OJT portions of the training program totaled less than 30 hours per week (a figure drawn from present section 1788(a)(5) in chapter 36 of title 38 regarding measurement of OJT full-time programs under the GI bill). This provision is designed to make physicians' assistant training more attractive to veterans with medical MOS's. No cost estimate has been provided by the VA, but it is unlikely to be appreciable.

Section 207 amends present section 4116 of title 38, regarding defense of certain malpractice and negligence suits against the U.S. arising out of actions of certain VA health care personnel. They were included in the administration bill (section 206 of S. 1924) proposed in the 92nd Congress at no additional estimated cost, to clarify and extend this protection to cases where Federal Tort claims actions would not lie, but actions could still be brought against the VA employee personally for actions arising in the exercise of his duties; to authorize the Administrator to provide insurance for these purposes; and to add specification of physicians' and dentists' assistants. Virtually identical provisions were added to the Public Health Service Act by PL 91–623 in 1970 and were included.

Section 208 amends present section 4117 of title 38, authorizing contracts for scarce medical specialist services, to clarify that the authority extends to "any group or individual capable of furnishing" the necessary services. This provision is included in the administration bill (section 207 of S. 1924 proposed in the 92d Congress), with a VA estimate of no additional cost. Reference to physicians' and dentists' assistants is added.

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

Section 301: Subsection (a) amends present section 5001 of title 38, regarding hospital and domiciliary functions, in three respects:

Clause (1) in the subsection amends paragraph (2) to require the Administrator to provide for an annual average of 98,500 operating beds and an average daily patient census (ADPC) of 85,500 in any fiscal year, and to maintain no less than an average daily patient census of 82,000 in any such fiscal year. A similar provision (for an ADPC of 85,500) is included in the VA appropriation acts for FY 1972 and FY 1973.

Clause (2) in the subsection amends paragraph (3) to raise the nursing home care beds authorization from the present minimum (4,000) to a maximum of 8,000 by FY 1974 (6,568 presently in operation) to be maintained thereafter.

Subsection (b) of section 301 revises subsection (b) of the present section 5001 of title 38, requiring fireproof construction of VA hospitals and domiciliaries, to require the Administrator to make fire, earthquake, and other disaster resistance studies, to ensure that all new construction and new acquisitions must meet new safety standards he is directed to prescribe; and to provide for the appointment of an intra-agency Advisory Committee on Structural Safety in VA facilities.

Subsection (c) of section 301 adds a new subsection (g) to section 5001 of title 38 to authorize the Administrator to make contributions to local authorities for the construction of traffic controls, road improvements or other devices adjacent to VA medical facilities when deemed necessary for safe access. This provision was included in the fiscal year 1973 VA appropriation item (P.L. 92–383).

The VA is unable to estimate the costs involved in implementing the provisions of section 301.

Section 302 amends present chapter 81 (Acquisition and Operation of Hospital and Domiciliary Facilities) of title 38, as follows:

Clause (1) of section 302 adds to chapter 81 of title 38 a new section 5007 (Partial Relinquishment of legislative jurisdiction), which authorizes the Administrator to cede concurrent jurisdiction over VA lands and interests to the State where located. This provision is based on the administration bill (H.R. 481) in the 92d Congress which passed the House, but would not permit, as that bill would, total relinquishment of jurisdiction to a State. Rather, the bill as reported permits only the ceding of concurrent jurisdiction, as did P.L. 91–45 ceding concurrent jurisdiction over the Fort Harrison, Montana, VA Center real property, thereby maintaining a clear and continuing Federal control over VA land and buildings situated thereon. The VA estimates that this provision would entail no additional cost and concurs in its approach.

Clause (2) of section 302 amends present chapter 81 by amending subsection (a) of present section 5012 of title 38, regarding leasing for up to three years of lands or buildings under VA control, a new sentence exempting such leases from 5 U.S.C. 41, which requires advertising for leases above $500, and from the provisions of 40 U.S.C. 303b, which bar lease provisions calling for property maintenance as part of the consideration for the rental. These provisions were included in the administration bill (section 301 of S. 1924) proposed in the 92d Congress. An additional sentence is added in the bill as reported to require the Administrator, prior to execution of such a lease, to give appropriate public notice in local newspapers of his intention to execute such a lease.

Clause (3) of section 302 amends the table of sections at the beginning of present chapter 81 by inserting reference to the new section 5007 added by clause (1) of section 302 of the bill as reported.

Section 303:—Subsection (a): Clause (1) amends present section 5053(a) of title 38, authorizing arrangements for the sharing of specialized medical resources between VA and community hospital facilities, by making clear that these arrangements may also be made with "medical schools or clinics". This provision is included in the administration bill (section 302(a)(1) of S. 1924) proposed in the 92d Congress, and would, along with the other two clauses added, entail no additional cost, according to the VA estimate.

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

Section 401 amends subsection (b) of section 230 of title 38, regarding VA central and regional offices, to extend the termination date of the Administrator's authority to maintain a regional office in the Republic of the Philippines from July 3, 1974, to June 30, 1978. The VA estimates the first-year cost as $975,000 and the same for each of the next four fiscal years.

Section 402:—Subsection (a) amends present section 234 of title 38, regarding telephone services for medical officers, to permit installation in private residences for official use of a telephone for nonmedical director of VA centers, hospitals, independent clinics and domiciliaries; presently, such installation may be made only for physician directors. This provision was included in the administration bill (section 401 of S. 1924) proposed in the 92d Congress, and the VA estimate of the annual cost is $3,000.

Subsections (b) and (c) of section 402 amend the table of section at the beginning of present chapter 3 and the catchline at the beginning of present section 234 of title 38 to change the catchline of section 234 to reflect the amendment made in subsection (a)(1) of section 401 of the bill as reported.

Section 403 amends a number of sections of title 38—section 641, increasing the rates for VA payments to State veterans hospitals and nursing homes and making such payments in the case of veterans of the post-Korean conflict, with an estimated first-year cost of $5 million; and section 644(b), authorizing appropriations for VA grants to states for remodeling and altering state veterans homes, section 5035(a)(1), (b)(1), and (d), all regarding VA grants to states for construction of state home facilities providing nursing care to war veterans, and section 5036, regarding recapture of the VA assisted portion of such homes which cease to be operated principally for the care of veterans—to raise from 50 percent to 65 percent the permissible VA share of the cost of the proposed state home project. This provision is identical to that requested by the administration in the 92d Congress.

TITLE V—EFFECTIVE DATES

Section 501 makes all provisions of the proposed Act effective on the first of the month following enactment except for sections 106 (reimbursement for loss of personal effects in natural disaster) and 107 (reimbursement for certain emergency medical expenses), which are made retroactive to January 1, 1971, and section 203 (pay and

grade schedules and new premium and overtime pay), the provisions of which become effective beginning with the first pay period following 30 days after enactment.

Mr. CRANSTON. Mr. President, I was shocked when I read that memorandum of disapproval last fall to learn that the President—or at least those who wrote his statement—considered this a "bad bill." I ask my colleagues how can a piece of legislation be a bad bill which does the following:

Makes 47,785 veterans with 80 percent rated service-connected disabilities eligible for full VA medical care. Is that a bad bill?

Makes full VA medical care available to some 282,000 wives and children of veterans with total and permanent service-connected disabilities, and the widows and orphans of veterans who died from service-connected disabilities. Is that a bad bill?

Makes eligible for VA health care some 150,000 peacetime veterans who are unable to afford private care for non-service-connected disabilities. Is that a bad bill?

Raises the VA hospital staff-to-patient ratios to the level in community facilities. Is that a bad bill?

Establishes a new major mission for the VA Department of Medicine and Surgery to help train the health manpower needed to meet the Nation's medical needs, placing special emphasis on VA hiring and training of former military medics. Is that a bad bill?

Raises by 50 percent the number of VA nursing home beds to 8,000 and requires the VA to provide for a minimum number of 98,500 VA hospital beds and an average daily patient census of 85,500, mandating that the minimum number of patients average at least 82,000. Is that a bad bill?

Authorizes ambulatory care for all veterans in order to prevent the need for future hospitalization, rather than only right before or after hospitalization; authorizes service to members of veterans' families—particularly those needing mental health counseling—when needed to make the veteran's care effective; and calls for an expansion of VA home health care programs. Is that a bad bill?

Makes VA hospitals and domiciliaries safe from earthquakes to avoid tragedies such as happened in the 1971 San Fernando earthquake. Is that a bad bill?

Offers counseling and help to an undetermined number of black veterans and their spouses suffering from sickle cell anemia or with the sickle cell trait. Is that a bad bill? and

Provides overtime and premium pay for 20,000 VA registered nurses who are now deprived of these benefits that are paid to all other Federal nurses. Is that a bad bill?

Mr. President, in his memorandum of disapproval, the President announced his policy "to reduce sharply the Federal Government's role in the direct provision of health services." This should provide a clear signal that he has been won over by those in the Office of Management and Budget who oppose a strong and independent VA medical system and seek to dismantle it piece by piece.

The main goal of the Veterans Health Care Expansion Act of 1973, Mr. President, is to strengthen the independence of the system and to prevent just such a piecemeal destruction.

Mr. President, action on S. 59, S. 49, and S. 284 comes today as a most fitting culmination to the annual meeting of the Veterans of Foreign Wars of the United States. This organization has been at the forefront of the fight which we have been waging in the Congress and in the Nation for the last 4 years to provide quality medical care, equitable training and education assistance, an effective national cemetery and burial policy, and fair and compassionate treatment in other veterans' benefits and programs for the veterans of all wars. Through their leadership and through their efforts the VFW has rendered a singular service to 29 million veterans and their loved ones and has honored the Nation of which they and we are so proud.

Mr. President, on February 16, the national legislative service director of the VFW, Mr. Francis Stover, wrote me an excellent letter in which he presented a forecful brief for two of the most essential provisions of S. 59—indeed probably the two most essential provisions—in combating the stated administration effort to curtail VA health care programs: The minimum average daily patient and staff-to-patient ratio provisions. I ask unanimous consent, Mr. President, that the full text and enclosure of this February 16 letter be set forth in the RECORD at this point.

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

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., February 16, 1973.

The Honorable ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in further reference to S. 59 introduced by yourself and cosponsored by several others, which is identical to H.R. 10880, the Veterans Health Care Expansion Act of 1972, which was pocket vetoed by the President on October 27, 1972.

The Veterans of Foreign Wars is deeply disturbed at the inadequate staffing in many Veterans Administration hospitals. There is no question that the number of personnel in Veterans Administration hospitals is the root cause for so many of the problems which Veterans Administration Hospital Managers are faced with on a day to day basis. In that regard, the Veterans of Foreign Wars has been extremely pleased that your Subcommittee after marshalling the facts regarding inadequate staffing and services in Veterans Administration hospitals presented this information to your Appropriations Committee in both the 91st and 92nd Congresses, which responded favorably by adding millions of dollars for veterans hospitals and medical care. In addition, as a result of your Committee's comprehensive hearings regarding veterans medical care and hospitals, the Senate and the Congress approved for the last two years a mandate that there must be a minimum average daily patient census in the 168 Veterans Administration hospitals of not less than 85,500 patients.

H.R. 10880, in addition to the minimum care which Veterans Administration hospitals must provide, directed the Veterans Administration to have every Veterans Administration facility within a period of three years reach a comparable staff to patient ratio with a community hospital. As the record shows, the present staff patient ratio in Veterans Administration hospitals is about 1.5 as compared to about 2.7 for the average community hospital and over 3.5 for university medical center hospitals.

There has come to the attention of the Veterans of Foreign Wars a paper being circulated in the Senate which goes to great lengths to discredit the staff patient ratio measuring stick for determining quality patient care in Veterans Administration hospitals. After reading this document, which apparently originated in the Veterans Administration at the insistence of the Office of Management and Budget, the best that can be said about it is that it makes the best possible defense for a guilty client.

The observations in the Veterans Administration memorandum regarding staff patient ratios apparently stem from an in-depth study which was made by the Department of Medicine and Surgery of the Veterans Administration regarding this very question of staff patient ratios in Veterans Administration hospitals. Our friends tell us that this study which was made by the Department of Medicine and Surgery came to a different conclusion than the memorandum which is being circulated in the Senate. It is strongly recommended that your Subcommittee and Committee obtain a copy of this staff patient study by the Veterans Administration Department of Medicine and Surgery, so that you can have the benefit of the entire report—not just an interpretive analysis calculated to discredit the findings and recommendations contained in the report.

It is our understanding that this report makes it clear that there is great disparity between the Veterans Administration and community hospitals regarding staff patient ratios which are caused by the lack of funds being allocated to the individual Veterans Administration hospitals by the Veterans Administration Central Office in Washington, D.C. The report further indicated that the number of nurses in community hospitals far exceeds the number employed by the Veterans Administration, which is a further indication of the higher quality service which community hospitals provide, especially at night and on weekends.

The staff patient ratio, as required in Senate Report 92–776 will be a tremendously helpful tool for Veterans Administration Hospital Directors throughout the nation to improve the quality of medical care, especially for the many Vietnam veterans with their very crippling injuries and disabilities. It is our understanding that the staff patient ratio requirement is discretionary and would vary from hospital to hospital, depending upon the community in which the Veterans Administration is located. The staff patient ratio is a most reliable indicator to determine the quality of care veterans are being provided in Veterans Administration hospitals. The Veterans of Foreign Wars knows the Congress wants veterans to have medical care second to none. Increasing the staff patient ratio, as provided in S. 59, is one way the Congress can assure that the Office of Management and Budget will approve quality medical care comparable to community hospitals in the same area.

Recently this office prepared a statement on why the staff patient ratio is so important in this regard, and a copy is enclosed. Unfortunately, the Office of Management and Budget continues unalterably on its course to drastically cut veterans medical care and hospitals. For fiscal year 1974 it contemplates maintaining an average daily patient load of only 80,000. The Office of Management and Budget continues to contemptuously ignore the Congressional mandate that there should be at least an average daily patient census of 85,500 in Veterans Administration hospitals.

So long as the Veterans Administration is permitted to ignore the Congressional man-

date of maintaining a minimum number of patients being treated on an average daily basis in Veterans Administration hospitals, the Veterans Administration staff patient ratio will continue to be maintained or even slightly improve. By approving S. 59, Congress can halt this contemptuous disregard of the Congress by the Office of Management and Budget.

The Veterans of Foreign Wars strongly urges your Subcommittee to favorably consider S. 59, with the hope that it is unanimously approved by the Subcommittee and promptly approved by the Senate.

With kind personal regards, I am

Sincerely,

FRANCIS W. STOVER,
Director, National Legislative Service.

Enclosure.

WHY VFW BELIEVES STAFF PATIENT RATIO IN VA HOSPITALS IS SO CRUCIAL

The present staff ratio in VA hospitals is 1.5 to 1; in community hospitals it is twice as much. In practically all community hospitals it is more than 2 to 1.

The staff patient ratio is directly related to the service a veteran receives when he goes into a VA hospital. When a veteran enters a VA hospital he expects certain things to happen; for example, he expects someone to see him when he arrives at the admission desk and arrange for his admission in a reasonable time. He doesn't expect to wait all day or worse have to come back the next day. He expects a doctor to see him fairly soon once he is in a hospital bed. When he rings the buzzer for a glass of water, he expects someone to respond. He doesn't have to expect to ring and ring and ring. He expects the hospital to be clean; the beds to be made promptly, and a lot of other things which make a stay in a hospital as pleasant as possible. Most important, he expects quality medical care from the best available medical personnel.

The staff patient ratio in new VA hospitals is so limited that it is just impossible for the dedicated people working there to give the kind of service a veteran expects. The irony is that veterans who use a VA hospital become disgruntled and they are the ones who will turn on the VA system and eventually say "to hell with it." Beneficiaries of the system, in other words, veterans themselves, become so disgusted they will be the ones clamoring for some other way to take care of veterans.

A major reason for this is the staff patient ratio. How can we expect the VA to provide the same kind of service to veterans with 1.5 to 1 as a community hospital, which has 3 to 1.

The Office of Management and Budget knows this better than anyone. They have been successful in providing starvation budgets for the Public Health hospitals, which are now described as obsolete and unable to render medical care of any consequence. Unless the veterans of this nation wake up and do something about this staff patient ratio in VA hospitals, the OMB is going to have a lot more support for its long-range goal to close "obsolete and understaffed" VA hospitals, which cannot provide quality medical care for the simple reason they just don't have enough money to hire the people they need. A provision in S. 59 will require the staff patient ratio to be increased in VA hospitals. This reason alone warrants all-out total support by organized veterans for quick Congressional approval of S. 59.

Mr. CRANSTON. Mr. President, in closing, let me say that I believe, indeed I know, that the Members of this body and the veterans in this country understand that S. 59 is a good bill and that they stand four-square behind it and four-square against any attempt to reduce the independence, strength, and integrity of the VA hospital system. Our action today will make that perfectly clear.

Mr. President, I am prepared to answer any question that any Member of the Senate may have.

Mr. HANSEN. Mr. President, this bill is an omnibus hospital bill (S. 59) and provides much needed legislation to continue the outstanding veteran health care for this Nation's veterans.

The Veterans' Administration through its vast hospital system, is second to none in providing quality care. However, we must not be remiss in continuing to update these services. We feel this bill would have lasting effects on our great hospital system.

It will provide night differential for nurses, aides, and other personnel required to maintain the hospital system. This is a necessary item called for many times and nothing has been done regarding the issue. Now, by this one action, we can alleviate the situation.

This bill also will provide for the Comptroller General to do an extensive study to ascertain if the Administrator of Veterans' Affairs is providing through the VA hospital system, quality care comparable to that provided by community hospitals. It is my belief the Administrator is providing quality care for our Nation's veterans at the least expense to the taxpayer, but we must examine the program periodically in order to be assured these services are maintained in the best possible manner with the most up-to-date developments for those who served this Nation in uniform.

We provide in this bill an expanded benefit that dependents of veterans rated 100 percent disabled from a service-connected disability, or the dependents of those killed in acton be provided medical care on a space available basis. However, in no instance will the veteran who needs care be denied this benefit because of dependents occupying space.

The other factors of this bill also are important. To discuss each one in its entirety, could consume many hours. The committee feels this is an excellent bill.

Mr. SAXBE. Mr. President, I believe I have time reserved on this bill?

The PRESIDING OFFICER. The Senator from Ohio has 10 minutes.

Mr. SAXBE. Mr. President, as a former member of this committee, I am interested in the bill. And I certainly agree with most of the purposes set out. I do want to raise one issue contained in this bill that I question.

This bill extends to 282,000 dependents of totally disabled military personnel and the families of those who have died from service-connected disability the privileges of receiving medical care at the VA hospitals.

I am one of the Senators who have sponsored a comprehensive health plan in this country. And I think that sooner or later we will have to acknowledge that all people in this country are entitled to competent and comprehensive medical care. And we had better get at the problem of financing it as soon as possible.

The reason why I question this particular instance is that we would be further spending the really undistinguished medical service we are affording those patients in our VA hospitals.

Mr. President, I speak with some knowledge of this matter. The staffs of our Veterans' hospitals are made up primarily of interns, residents, and foreign doctors whom they have recruited from all parts of the globe, and a few dedicated physicians from the local areas in which these hospitals are located. However, for the most part, they are certainly not distinguished and the service they give is not distinguished.

None of these hospitals are equipped for OB, GYN, or pediatric care. Even though there is a provision in the bill for farming out nursing care, for farming out those people who cannot be accommodated at a VA hospital, I think any one of us, through experience, will recognize the fact that sooner or later the facilities will be expanded, and we will be out on the hunt again for more doctors from an already depleted supply in this country, and will be faced again with inadequate service.

I do not question the fact that the families and dependents of totally disabled service-connected veterans should have medical care. I planned to offer an amendment that such care can be extended to them, if we feel we have the money to do it—and it is a humanitarian thing to do. But I find in the bill a provision which says that the administrator, if he determines that facilities are not available, or that it is going to deprive veterans of adequate care, can make arrangements with contract hospitals—they would be the general hospitals in the area—to take care of the excess.

This is what I would like to say: Rather than to set up OB and GYN clinics, trying to handle such persons, rather than to set up pediatric departments in veterans hospitals, I would like to see them sent to contract hospitals. But I shall not offer the amendment, simply because of this escape hatch in the bill.

Why do I say that even with the escape hatch we are going to see them incorporated in veterans' hospitals? Simply because of the age-old tradition that it can be done, it will be done. Sooner or later, the ambitious local administrators and the ambitious local doctors will say, "We have the authority; let us get the money now; let us get new hospitals to get the outpatient care for dependents." This will leave the further extension of this care to the undistinguished. That is the way it looks to me. I would like to hear what the Senator from California has to say.

Mr. CRANSTON. Mr. President, I should like to reply to my good friend from Ohio on this point.

First, the committee shares the concern expressed by my good friend from Ohio about the possible overloading of VA facilities by the expansion of eligibility for VA hospital care and medical services to include the wives and dependents of veterans with 100 percent service-connected disabilities and the widows and dependents of those who died

from service-connected disabilities. It is because of this concern that the bill provides specifically, in section 101(a), on page 2, line 22, through page 3, line 3, authority for the Administrator to contract for hospital care in community facilities for such dependents; and in section 102, clause (4), conditions the furnishing of hospital or nursing home care to such dependents specifically only "to the extent that the provision of such care does not interfere with the furnishing of care to eligible veterans".

These provisions are discussed in the committee report on pages 23, 39 and 40—Report No. 93–54.

These two provisions mean that when a VA hospital does not have the existing resources or other capacity to provide hospital or nursing home care for dependents, the Administrator shall contract for that care.

Second, with respect to outpatient care for such dependents, the Administrator also has full contract or fee authority in section 612(f) as it is revised by section 103 of the bill. This is discussed expressly in the Section-by-Section Analysis of the bill on pages 41 and 42 of the Committee report.

The situation with respect to patient utilization of VA hospitals and other medical facilities varies markedly around the country in the 168 hospitals and 201 outpatient clinics. Where there is existing capacity unused, the Committee intends that it be used to provide care for these very deserving dependents. Where the capacity does not exist in-house, both hospital and nursing home care and medical services should be provided by fee or contract.

I think this fully covers the concerns of the Senator from Ohio.

Mr. SAXBE. Mr. President, I yield back the remainder of my time.

Mr. AIKEN. Will the Senator yield for a question?

Mr. CRANSTON. Certainly.

Mr. AIKEN. May I ask if this provision would cover the families of POW's who died in prison? Was that service-connected disability, or what was it?

Mr. CRANSTON. Yes, it would cover it.

Mr. AIKEN. It would cover them, too? There are quite a lot of them.

Mr. CRANSTON. Yes, it would.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. HARTKE. Mr. President, I would like to compliment the Senator from California on this measure. He has been a real help to the veterans.

Mr. President, I rise in support of S. 59, the Veterans' Health Care Expansion Act of 1973. This is a bill of vital importance to the veterans of our Nation. It is quite similar to the Veterans' Health Care Expansion Act of 1972 which unanimously passed the Senate and the House last year but which was unfortunately pocket vetoed by the President last year on October 27.

Briefly, the bill as reported would expand the quality and quantity of Veterans' Administration medical care by removing certain legislative restrictions on the scope of treatment. In particular, VA home health care programs would be expanded and ambulatory health care would be authorized for thousands of veterans when needed to forestall hospitalization. Under the Veterans' Health Care Expansion Act, approximately 48,000 veterans with 80 percent rated service-connected disabilities would become eligible for full VA medical care.

In addition, for the first time, full VA medical care would be available to some 282,000 widows and orphans of veterans who died of service-connected disabilities, and wives and children of veterans with total and permanent service-connected disabilities. The bill would also provide for voluntary comprehensive sickle-cell anemia screening and counseling programs for requesting veterans and their spouses. The bill would also establish a new major mission for the VA Department of Medicine and Surgery to help train manpower needed to help the Nation's medical needs, especially the training and employment by the Veterans' Administration of former military medics. The bill would also improve the personnel system in the Department of Medicine and Surgery to make the VA hospital system more attractive to skilled health care personnel and thus be able to compete for scarce health care manpower. It would improve the staff-to-patient ratios in VA medical care facilities to put them on a par with staff-patient ratios at comparable community hospitals.

I believe that the President received bad advice from those who urged him to pocket-veto this measure. Each and every member of the Committee on Veterans' Affairs believes that this bill should be passed and I hope that each Member of the Senate will agree.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a detailed committee rebuttal to the objections listed in the memorandum of disapproval by the President dated October 27.

There being no objection the material was ordered printed as follows:

VETO REBUTTAL: DISCUSSION

The Committee has carefully considered the Memorandum of Disapproval on H.R. 10880 as well as the VA's testimony in the 93d Congress. It has reviewed three volumes of hearings from the 91st and the 92nd Congress. It has asked witnesses who appeared in previous hearings in the 92nd Congress for their views concerning the reasoning in the President's Memorandum. In statements submitted to the Committee from veterans organizations, health professions organizations, and other interested groups, the response has been of one mind on three points: (1) support and endorsement of the bill as passed in the 92nd Congress, (2) the need for early action in the 92nd Congress, and (3) rejection of the grounds for the veto as stated in the Memorandum of Disapproval.

In view of this response and the bipartisan support for the bill as passed in the 92nd Congress, the Committee is reporting S. 59, which, with the exception of the five amendments and title amendment set forth earlier in the report, is virtually identical to the bill pocket vetoed by the President. The Committee has studied the objections set forth in the Memorandum of Disapproval and disagrees for the following reasons:

(1) *The liberalizing features of this bill would unnecessarily add hundreds of millions of dollars to the Federal budget. It would open the VA hospital system to non-veterans and would expand the type of direct medical services available from VA.*

There are two factors in this objection. First, the Memorandum suggests the expansion of benefits to veterans are unnecessary, and, from that premise, that the additional funds required to do so are an unnecessary burden on the Federal budget.

The Committee believes several principles should guide the VA medical program in producing first quality care for the nation's veterans. Among these are treating the veteran as a whole patient, treating the veteran as part of a family unit, and treating the veteran as a member of his community.

These are principles which all health care personnel adhere to, but which restrictive authorities of the current statute (title 38, U.S.C.) governing the Veterans Administration prevent staff of VA facilities from following. The bill expands these authorities to provide benefits to veterans in line with today's accepted medical practice standards.

In line with the principle of treating the veteran as a "whole" patient, the bill would amend present restrictions on care for a non-service-connected condition unrelated to the condition for which a veteran is hospitalized. Clearly, a physician cannot ethically assume responsibility for only a portion of his patient's health, and the bill would make clear that a veteran hospitalized for one condition may also be treated for another condition if the veteran is willing and the physician finds such services to be reasonably necessary to protect the veteran's health.

Along these same lines, the bill expands authorities for outpatient care when needed to obviate hospital care. Such ambulatory care will permit the veteran to receive necessary treatment while still remaining with his family and many times without causing an interruption of his employment responsibilities.

Another provision of the bill would permit veterans to apply for direct admission to a VA nursing home without prior VA hospitalization, as well as authorize direct transfer of a veteran from a military medical facility to either a VA or a community nursing home, and direct admission to such an institution for a veteran if certified essential for a service-connected disability by a VA physician.

In line with the principle of treating the veteran as part of a family unit, the bill authorizes bringing key family members to VA hospitals for orientation on the philosophy, goals, and achievements of a veteran's rehabilitation program. This is vital in the recovery of a physically disabled veteran, and in providing psychiatric treatment to a veteran, it is essential that he be treated as part of a family unit and that his family be counselled in connection with his care.

The bill also expands eligibility for VA medical care to a limited group of individuals. These are peace-time veterans who are unable to afford private care, some 150,000 men; veterans suffering from 80% or more service connected-disabilities whose benefits are expanded to cover all medical care rather than just care limited to that disability, some 47,785 men; and the wives and children of veterans with total and permanent service-connected disabilities and widows and orphans of veterans who died as a result of a service-connected injury, some 282,000 wives, widows and children.

These are the "liberalizing features" which the memorandum states will "unnecessarily add hundreds of millions of dollars to the Federal budget."

These men and their families have contributed a good part of their lives to their country and done so at a substantial personal sacrifice. The Committee does not feel

that the expenditure of funds for these purposes is in any way non-essential. In some instances, the broadened benefits will result in providing medical care in a more effective manner which will result in cost savings in the treatment of the individual patient. In all cases, the quality of care will be improved in accordance with modern medical practice.

The numerous precedents for affording substantial VA benefits to the dependents and survivors of seriously service-connected veterans, and the inequities in terms of Government-supported care for such dependents and survivors of enlisted men, are discussed at length in the report under the heading "Hospital Care and Medical Services for Dependents and Survivors of Totally Disabled Veterans".

Even the VA's own cost estimates for S. 59 place the one-year cost at about $100 million, rather than the "hundreds of millions" the memorandum suggests.

(2) *By providing direct medical services to veterans' dependents, the bill runs counter to this Administration's national health strategy which would provide national financing mechanisms for health care and sharply reduce the Federal Government's role in the direct provision of services.*

The Committee is firmly committed to the principle that the veterans of the nation deserve a medical system which will be responsive to their needs and will be capable of providing them immediately with quality care for treatment of the disabilities they have incurred in the service of their country.

In many instances, the nature of the veteran's injury requires the services of several medical specialists and a concentrated and lengthy program of physical rehabilitation as well as a lengthy recuperation. To meet these complex and special needs the VA system was established. There are no indications at present that the community in general has been able to provide these services promptly at so reasonable a cost as the VA to *any* individual, nor that it will be able to do so in the foreseeable future. Given the lack of services in the community, this Committee categorically rejects any suggestion that the VA medical system will not be sustained as long as there are service-connected disabled veterans who need its services.

The objection in the memorandum is an indication of the direction this administration's policies are following which threatens to result in the eventual dismantling of the VA medical system. The Committee believes this would be disastrous.

The Committee seeks in S. 59 to strengthen the independence of the VA medical system and prevent its piecemeal destruction by enabling it to provide better, more modern care in a more efficient manner to eligible veterans.

(3) *The bill also purports to set mandatory minimums on the number of patients treated in VA hospitals. In testimony on this bill, the Veterans Administration strongly objected to this provision on the grounds that it was totally unnecessary and could result in inefficient medical treatment and wasteful administrative practices. The tragic result would be a lower quality of medical care to all patients.*

The Committee has amended the bill to meet the objection raised by the memorandum that a mandatory minimum might result in inefficient medical treatment and wasteful administrative practices. H.R. 10880, the bill pocket vetoed by the President, provided that an average daily patient census of no less than 85,500 be maintained. This same mandate requirement has been imposed by the VA Appropriation Acts for both fiscal years 1972 and 1973.

An analysis of the VA average daily patient census for the current fiscal year shows that it will be approximately 82,000, although for the month of January it is 84,156 (1,000 higher than in January of 1972). At the same time, in December of 1972, there were 32,237 veterans on VA waiting lists or scheduled for hospital admission (determined to need care no sooner than 30 days). Thus, in the event that ambulatory care authorities in the bill do free some VA hospitals beds, there would seem to be ample veteran patients needing hospitalization to fill them.

Nevertheless, the VA FY 1973 budget is predicated upon an average daily patient census of 80,000, and there is every indication that OMB will force the VA to provide station allowances to hospitals based upon such an arbitrarily reduced census. The effect of this would probably be to reduce the *actual* census realized in FY 1974 to 78,000, since this has been the history since 1962—the *actual* census figure achieved, being about 2,000 lower than the *projected* census in that year's budget request.

These trends, coupled with the memorandum's statement regarding strategy to "sharply reduce the Government's direct role in the provision of services" indicate the need for Congress to express its intent clearly.

It is, therefore, believed that in order to counteract such stretagy, it is necessary for Congress to mandate a particular census minimum. However, it is recognized that such a minimum would be counter-productive if it set a minimum figure at too high a level. Thus, the Committee altered the language so that the 85,500 figure will be used for budgeting purposes and the determination of individual hospital station allocations, rather being mandated as than the minimum average census figure that must be maintained in the fiscal year. At the same time, in order to permit the census figure to be able to "float freely" at approximately the level anticipated for FY 1973, the amendment includes a provision that such census not be maintained at less than the 82,000 figure projected for this fiscal year.

Mr. HARTKE. Mr. President, perhaps a more poignant if less detailed rebuttal to the veto of the Veterans' Health Care Expansion Act was sounded by Robert Muller, a former Marine who was paralyzed in Vietnam. Appearing on NBC's "Today Show" on December 14, 1972, Lieutenant Muller expressed his feelings eloquently as to his disappointment with the veto of the bill. I ask unanimous consent that excerpts from this interview be printed in the RECORD at this point.

There being no objection, the material was ordered printed as follows:

DISABLED GI: "CIVIL RIGHTS FOR US ALL"

(Excerpts from an interview by Joe Garagiola and Frank McGee on NBC's "Today Show" of Dec. 14:)

GARAGIOLA. Three years ago near the South Vietnamese city of Quang Tri, Robert Muller was healthy and he was functioning as a first lieutenant in the United States Marines. Suddenly an enemy soldier popped up some 20 feet away, put a rifle bullet through Muller's chest, severing his spinal cord. And he remained conscious for about 10 seconds, which was long enough for him to accept the fact that he was going to die; that he was sure of. But several days later he woke up alive on an American hospital ship. You see, an Australian soldier had taken pains to pick him up and put him aboard an evacuation helicopter. And now Robert Muller is home, and he's going to law school at Hofstra College in New York State. He's doing this although he can't walk and he's confined to his wheelchair.

Now, he's not bitter, not at all . . . but there are some things that make him, well, angry, a little bit upset. He told us about them, and we invited him here to tell you how he feels . . . And my first question is that the first thing you mentioned to me was your complete disappointment that President Nixon vetoed two bills to help disabled people.

MULLER. Right. That was the Veterans Medical Care Act and Rehabilitation Act of 1972. And what bothered me so much was, this was vetoed after Congress had adjourned, so there was no chance or opportunity for Congress to override the veto; and all the work and effort put in, into developing these acts, will have to be done again and they'll have to be reintroduced. And I don't want to see them vetoed again. And if it is vetoed, I want to see that veto overridden, the reason being this: It was vetoed on the grounds of fiscal irresponsibility, and what we're talking about are bills that would have increased the quality and the quantity of care in the VA hospitals throughout the country. We're talking about rehabilitation programs on a national basis.

We're talking about funding in medical universities and schools, research funding for catastrophic illness and disability. This takes money. Money is needed. But what bothers me is to call it fiscally irresponsible to spend that money after I come from Vietnam, where in Vietnam as a platoon commander with the Marines, as an adviser with the ARVN, where it was primarily my function to call in supporting arms, to call in the air strikes, where on occasions I would call literally hundreds of thousands of dollars worth of supporting arms fire daily, to kill people, and getting shot doing it—to come back stateside and being told that: "I'm sorry, but it costs too much to give you adequate medical care in a VA hospital." That to me speaks loudly and clearly to the priorities in this country . . .

They talk about civil rights in this country. A lot of people think it just relates to one specific minority group. That's what we're talking about. We're talking about civil rights for all of us.

FRANK MCGEE. Is your complaint that you yourself have not been given adequate care or treatment, or is it others, civilians, soldiers? What precisely?

MULLER. It's a whole gamut. What affects me affects others, and what affects others affects me. When you have, for example, a school system which does not allow physically handicapped or disabled people to get into that system, that affects me. If you have mass transportation systems which are exclusive of people who have handicaps, that affects me. When you're talking about VA hospitals which are short on staff, doctors, nursing aides, that affects me. It affects me and it affects others. You have it as a class of people, the class of the handicapped, the class of the disabled; and seeking medical care for whatever illness or disability you have.

GARAGIOLA. . . . you mentioned VA hospitals in passing there. Are you saying that they've gone down since World War II?

MULLER. Right. Very, very much since World War II. In the early '50s the VA hospitals were the best hospitals we had in this country; there was no set of hospitals to match them. We were the leaders in research, the best care you could receive, the whole gamut. And you can reason why perhaps over the euphoria of victory of World War II, the status that veterans had in that day where guys would come home and you'd have a much different reaction to that; regardless of, you know, what people thought of the war, the veterans stood tall. Today you don't have that identity with veterans any more. It seems that the question of Vietnam, the ugliness of the whole thing, has cast its shadow on the veterans, regardless of whether they were forced there or they went there, they did their job. They come back: there's not that sensitivity, there's not that caring. How else could a President veto legislation such as that appropriating funds for the VA hospitals the week before

the election? This is what I'm talking about.

The hospitals have gone down. The staff is at the lowest level it's ever been. The patient load is at the highest level it's ever been. You've got Vietnam era veterans coming in. You've got your geriatrics cases and your old-age cases from World War II coming in. You have guys left from World War I. You've got guys in the hospital who never left from World War II, from the Korean War. The load is growing and growing. But the sensitivities—it's not there anymore; that's changed.

McGEE. . . . what did the VA do for you personally?

MULLER. . . . I got to thank the VA, because they let me know, like that! when I came back that if I wanted anything in life, anything, it was up to me because they weren't going to help me. I say that because when I came back I asked to have braces, because I wanted to try and ambulate, to walk, and the doctor said, "No, forget it. You have too high a level of injury."

I said . . . don't cast me in a generalization, don't throw me in a group with other people. I am an individual. Because I have a disability which is shared with others does not mean I lose my individuality. I want to walk."

And it was another doctor, who was a paraplegic himself, that came into the hospital as a consultant—I met him, he found out the problem, and he said, "Get that man braces." I got my braces. And I spent a year and I ambulated. And what it did for me, psychic, what-have-you, was fantastic. I could do it; in a desperate situation, I could do it.

The other thing they did to me was—aside from the physical aspect, was with a psychologist, and I had a running battle for a year; and it's indicative of the overall thinking, you might say, which people have quite often with disabled. She spent a year trying to tell me what I should do is go in a corner and cry because—seriously—because I had suffered a tangible loss in having three quarters of my body paralyzed. And . . .

GARAGIOLA. Upstairs—we talked before—you told me about the 10 seconds when you were shot, and you thought you were going to die, that was it; and then why you wouldn't cry at the end when you found out—you tell the story.

MULLER. Right. That's it. She said, "You had lost," you know, and that I had to cry. But the thing was, I couldn't convince her that when I got hit—okay? and I was conscious—I realized that I was dying. And I came to within a minute of dying; the doctor said a minute later I never would have made it. And when my eyes shut, I said, "I'm dead." To wake up on that hospital ship—I had several tubes in me. I was a paraplegic—to wake up was so beautiful and overwhelming that all that was secondary .And it's not what I lost that mattered to me; it's what I had. I had life. I had my head. You know? I had it together. That—that's it, man, you know? And that's why I learned from the VA right away, if I want something I've got to prove it. You know? It's the thing that I've got to prove myself. You know. They think that because you are disabled, you fit the image of the Easter Seals kid: some pathetic object of pity that's used for fund-raising of charity. I don't want charity; I don't want pity. I want to learn what you might call the right to fail. I want the opportunity to be like everybody else reintegrated into society in every way, shape, and form, one who can work, one who can find housing, one who can find education, the whole gamut. And when I say "me" that means me and all other disabled people.

McGEE. Can you tell me in a word how many there are?

MULLER. In a word, no—because I wouldn't know how to define "disabled."

McGEE. They are in the millions though?

MULLER. Oh, definitely.

Mr. HARTKE. Mr. President, we must act now to prevent reductions in the quality and quantity of medical care that have been proposed by the Administration. The groups which represent this country's veterans have made this need clear. The VFW testified yesterday that—

By holding down the average daily patient census, the Veterans' Administration has been able to maintain and even improve very slightly the staff-patient ratio. Even so, it is a shockingly low 1.5 to 1, far below the staff/patient ratio in comparable community hospitals, which is about 3 to 1. It is no wonder that more and more veterans are complaining to the VFW of long waits before being admitted to VA hospitals, housekeeping problems once they have been admitted, practically no service of any kind in some VA hospitals on weekends, and similar complaints, all of which are rooted in the low staff/patient ratio or inadequate personnel in Veterans' Administration hospitals.

The Disabled American Veterans, noting that the Administration has opposed provisions of this bill which expand health care to the dependents and survivors of certain disabled veterans, testified that—

This group of dependents and survivors very often cannot obtain, or are not eligible for, present health insurance programs. They are either excluded as the result of the living veterans 100 percent total disability, or because they cannot afford the premiums to purchase commercial health insurance.

The Paralyzed Veterans of America have testified that—

At present, due to the high cost of medical care and hospitalization, the disabled veteran must allocate a part of his limited and fixed income to insure against financial disaster in the form of a major illness or accident to a family member. The proposed expansion of health care to his family would ensure against just such a disaster and at the same time release this portion of his income to improve his standard of living.

The PVA also pointed out that S. 59 "would bring about a new dimension in the lifestyle of the severely disabled veteran, making it possible for him to leave the hospital and return home while continuing to receive vital medical care."

A telegram which I received this morning from the American Legion describes S. 59 as "sorely needed legislation." It lists several provisions which are of immediate concern to the members of the Legion. These include: out-patient care for non-service-connected conditions if this would obviate the need for a hospital bed; improved staff-patient ratios; mandatory minimum ceilings in the average daily patient census and number of beds in use; differential and overtime pay for nursing personnel.

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

There being no objection, the text of the telegram was ordered printed in the RECORD, as follows:

THE AMERICAN LEGION,
March 5, 1973.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans' Affairs, Washington, D.C.:

The American Legion strongly supports S. 59, the Veterans Health Care Expansion Act of 1973, which restates the purposes of H.R. 10880, passed by the Congress last year and vetoed.

Several of the provisions of S. 59 are of immediate concern. Among these are: Authority for out-patient care for non-service-connected conditions if such would obviate need for hospital bed; improved staff-patient ratios in VA hospitals; mandatory minimum ceilings in average daily patient census and operating beds, and provision for nursing personnel differential and overtime pay.

We commend you and the Committee on Veterans' Affairs for moving so quickly on this sorely needed legislation in the 93rd Congress.

HERALD E. STRINGER,
Director,
National Legislative Commission.

Mr. HARTKE. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point a telegram received from the National Association of College Veterans, which represents some 300,000 Vietnam-era veterans.

There being no objection, the telegram was ordered printed as follows:

NATIONAL ASSOCIATION OF
COLLEGIATE VETERANS,
March 6, 1973.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans' Affairs, Washington, D.C.

DEAR SENATOR: On behalf of the National Association of Collegiate Veterans, I express Vietnam veterans support for S. 59, the Veterans Health Care Expansion Act of 1973. S. 59 is a comprehensive step to first-class health care for veterans.

This health bill also begins to ensure the appropriate increased health care for the widows of Vietnam War servicemen, and the wives and children of totally disabled veterans.

The measure deserves the nation's full support. We simply cannot ignore the needs of the families of our war casualties.

We hope that early enactment and wholehearted support by Congress is forthcoming.

Sincerely,

JIM MAYER,
President.

Mr. HARTKE. Mr. President, I urge the Senate approve the Veterans Health Care Expansion Act of 1973.

Mr. CRANSTON. I thank the Senator from Indiana for his great leadership and those kind words.

Mr. President, the distinguished chairman of the Committee on Labor and Public Welfare (Mr. WILLIAMS) is unavoidably absent today. He is a cosponsor of S. 59, S. 49, and S. 284, the three bills we are considering this afternoon. I ask unanimous consent, Mr. President, that the statement he would have made be set forth in the RECORD at the appropriate place.

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

STATEMENT BY SENATOR WILLIAMS

After Congress adjourned last October, Mr. Nixon vetoed two pieces of legislation which were vital to the welfare of certain veterans and their families. With these vetoes, he gave an unfeeling no to those veterans who have anticipated a burial in a national cemetery or who have been severely disabled in military service to America.

The men whose hopes and welfare were dashed by this disregard to their sacrifice are the same men who followed their orders and fought on behalf of our country in perilous and heart-rending times. Now their service is over, their commitment has been met and in the course of fulfilling that service they

have died or been disabled. But the benefits approved in Congress by a substantial margin will not be received.

I am most gratified that identical legislation has been reported to the Senate and that we are considering that legislation today. I have joined in sponsoring both the National Cemeteries Act of 1973, S. 49, and the Veterans Health Care Extension Act of 1973, S. 59, because I am convinced that we must provide those young men who endured the ordeal of Vietnam with an adequate level of services upon their return home.

Regrettably, this sense of obligation and compassion for our young soldiers is not shared by the Administration. But this should not surprise us. For we have come to expect from this President inaction after rhetoric, even when the rhetoric borders on the eloquent and seems sincere. The list of those who have been lifted by his promises, only to wait in vain for follow-through is a long and tragic one. And our veterans make up one of the more tragic examples, sharing that unhappy distinction with our elderly, handicapped, and poor. I am indeed pleased that our prisoners of war are returning home and that within the next few weeks, our military involvement will hopefully be terminated in Vietnam. However, in the waning days of this war, I am compelled to think of the literally hundreds of thousands of Americans who suffered physically or emotionally during their service in the military. Are they to be forgotten as we joyously welcome several hundred prisoners? Apparently, the Administration would hope so.

I recently read an excellent article by Tom Wicker in the New York Times which discusses the Administration's shameful deemphasis of the problems of Vietnam-era veterans. I ask unanimous consent that it be included in the RECORD after my remarks.

Mr. President, by considering this legislation today—and I trust that we shall again approve this legislation—the Senate will state unequivocally that the American people, through their representatives in Congress, will not turn their backs on those Americans who accepted a role in America's armed services. Furthermore, by this action, I trust that the Administration will understand that our feelings and memories are not so shallow or short that we can forget the massive sacrifices made by so many in this time of confusion and misdirection.

The bills we are considering today are in part addressed to these men who executed a policy whose wisdom will be debated for years.

The National Cemetery Act of 1973 establishes within the Veterans Administration a national cemetery system and realistically increases the existing burial allowance. Congress has been studying and developing legislation to achieve these basic goals since 1966. And while this sort of revision has been pending in Congress, the national cemetery system has not been expanded. As a result, most of these cemeteries are full and veterans are either unable to be buried in a national cemetery or must be buried in such a cemetery several hundred miles from their homes.

For example, in New Jersey there are over 1,100,000 veterans, yet except for a very few Vietnam casualties the Beverly National Cemetery has been closed to new burials since the end of 1965.

Last year I emphasized the critical shortage of burial space in New Jersey by introducing legislation to expand the Beverly National Cemetery. Unfortunately, action was not taken on that bill and now New Jersey veterans must seek burial space as far away as Long Island or North Carolina.

Under S. 49, the Administrator of the Veterans Administration would be in a position to resolve this situation by conducting a survey to determine the need for national cemeteries throughout the country and then requesting authorization from Congress for the acquisition and development of the most sorely needed cemeteries.

Mr. President, I have also joined as a sponsor of Senator Cranston's bill, the Veterans Health Care Expansion Act. This legislation would open up our veterans' hospital system to the wives and children of veterans who were totally disabled in combat and to the wives and children of men who died in service to their country. It extends to those men who have 80 percent service-connected disabilities the full benefits of the VA medical system.

With regard to the facilities and services available, the bill requires that the separate medical departments of each VA hospital bring their staff to patient ratio up to the same level of hospitals in the community and provides for improved structural safety of all VA facilities. Finally, this bill establishes a sickle cell anemia program in the veterans' health care system.

This bill would have a substantial impact on New Jersey's large veteran population. For example, the families of nearly 8,000 New Jerseyites who died in service, the 2,000 veterans who are 80 or 90 percent disabled, and the families of veterans who are totally disabled would be brought into the VA hospital system for the first time.

Apparently, Mr. Nixon in vetoing this bill did not feel that these men and their wives and children who gave their all to America should be able to have the assurance that their health needs will be met or at least shared by their Government.

Senator Cranston has introduced another important veterans bill which we are acting on today—The Veterans Drug and Alcoholic Treatment Rehabilitation Act of 1973, S. 284. I have cosponsored this bill because of the dire need for the effective and comprehensive treatment and rehabilitative services it provides for veterans who suffer from alcoholism or drug abuse.

Vietnam, probably more than any other war, has presented our society with new problems associated with returning veterans. In addition to a sense of alienation and confusion which I understand many Vietnam veterans feel, we have many more veterans who are returning home totally disabled. These men were snatched from the battlefield by helicopter and delivered to hospitals where their lives were mercifully preserved. Enactment of S. 49 is essential if we are to provide necessary benefits for these men and their families.

Also in unprecedented numbers we have veterans returning to the States who are addicted to drugs of all kinds. These men must be assisted in their rehabilitation and readjustment to society. S. 284 provides these basic services.

I am pleased to support these three pieces of legislation. Despite anticipated opposition and dilatory response from the Administrative, we in Congress shall strive to ensure that veterans receive the benefits and care they rightfully expect and deserve from their Government.

I commend Senators Hartke and Cranston for their vital, sustained leadership in veterans matters. I trust that the Senate will approve all three of these bills and that the House will in turn support this vital Congressional program to benefit veterans.

[From the New York Times, Feb. 15, 1973]

RED CARPETS AND OTHER HYPOCRISIES

(By Tom Wicker)

The American prisoners of war are coming home from captivity, some of them after as long as seven years, all 592 of them to heroes' welcome. President Nixon has remarked upon the good character required to withstand imprisonment, and has sought to insure the privacy of their family reunions. At Honolulu, a red carpet was spread for them. Each will be able to use a new Ford automobile for a year without cost. Official mourning for Presidents Truman and Johnson has been replaced by flags at full staff, representing official pleasure in the prisoners' return. The Pentagon reports that it has persuaded the Nation's biggest employers to find jobs for former P.O.W.'s who choose to leave military service. Television and the newspapers breathlessly cover every stage of the return.

All this may be well-deserved, but like so many other developments of the war in Vietnam, it discloses a warped sense of priorities on the home front. In what way are these relatively few P.O.W.'s greater heroes than the 50,000 dead boys who came home in body bags, some of them with smuggled heroin obscenely concealed in their mangled flesh, most of them to obscure graves and public indifference?

And if it is argued that not much, after all, can be done to make amends to the dead, then in what way are the returning P.O.W.'s more to be honored and preferred than the 254,000 Vietnam era veterans aged 20 to 29 who are unemployed in the richest nation on earth? By what standards do the released prisoners deserve so much honor of the Republic when at the end of 1972 only a few more than 20,000 of the estimated 60 to 100,000 drug-addicted Vietnam-era veterans were receiving or had received treatment for this "service-connected" disability?

As to drug addiction, in fact, the Veterans Administration programs available are limited basically to detoxification, with no provision for the kind of rehabilitation or retraining that might help a reformed addict stay off the habit. And in its fiscal 1974 budget, the Administration that is making so much of the P.O.W.'s return has proposed no increase in funds for treating drug-addicted veterans and is opposing a Senate bill that would provide rehabilitation and job placement services for these most tragic of the Vietnam veterans.

In fiscal 1971, an arbitrary cut from 84,000 to 79,000 in the average daily patient census—the equivalent of closing seventeen hospitals—was imposed on V.A. hospitals. Congressional action forced the average daily census back to about 82,000 but the fiscal 1974 budget proposes to reduce it again to 80,000.

Mr. Nixon did rescind a recent VA order that would have reduced disability payments to Vietnam-era veterans, and nothing could have been more appropriate in the week when the P.O.W.'s began coming home to popular acclaim; but staff members of the Senate Veterans Affairs Committee can cite numerous other examples of official and public reluctance to pay sufficient attention to the ordinary and unsung veterans who have been coming home all along.

So let us honor the P.O.W.'s and be glad their ordeal is ended; but let us remember also those who shall have borne the battle, those who need a new Ford less than a decent job, those for whom the only bracelet is a band of needle marks.

The unemployment picture—although it has recently improved somewhat—provides an equally strange example of relative values? Among Vietnam-era veterans 20 to 24 years of age, surely a crucial group, unemployment in January of this year was running at 8.6 per cent, about twice the general rate, and well above the 7.4 per cent rate for nonveterans aged 20 to 24. The society that is so joyfully welcoming the P.O.W.'s, moreover, permitted unemployment among black Vietnam-era veterans aged 20 to 24, another crucial group, to run at 9.5 per cent in the last quarter of 1972.

So far from rolling out red carpets for these unemployed veterans, the Administration proposes in the new budget to eliminate $1 billion for public employment—of whose enrollees, nearly 40 per cent or about 61,000 are Vietnam-era veterans. A severe cut also has been proposed in vocational training under the Manpower Development and

Training Act, for which another 40,000 Vietnam-era veterans are enrolled.

The Administration has never put into effect an educational program ordered by Congress that would provide $300 additional per veteran enrolled to institutions that would carry out special programs for veterans, and another $150 for each enrolled veteran who had not completed high school. Mr. Nixon vetoed last October a veterans' health care bill that would have provided funds to bring V.A. hospitals' staff-patient ratios up from less than 2 to 1 to the 2.7-to-1 average of other hospitals.

Mr. STAFFORD. Mr. President, the need for the Veterans Health Care Expansion Act grows greater every day. This bill is designed to maintain the so often quoted phrase of the veterans hospital system: "Care second to none."

We in the Senate have an obligation to provide the best medical care possible when we are responsible for the system. This bill will provide the necessary legislation for the veterans hospitals to progress beyond the present state of criticism which seems to surround them. The staff-patient ratio provision will assure that those patients within the system will receive the finest care that can be provided. The increasing of the rate of per diem and other costs for our veterans homes will correspondingly increase the quality of care and services to those veterans who reside in the homes.

Mr. President, I hope the quick action of the Senate on this bill will help it get signed into law very soon. As in the past, this legislation has my complete support.

Mr. ALLEN. Mr. President, today the Senate is considering legislation which vitally affects the welfare of our veterans, their widows, children, and other dependents. I know that the distinguished chairman of the Senate Committee on Veterans' Affairs (Mr. HARTKE) and other members of the committee are well prepared to discuss these bills in detail and are anxious to answer any specific question concerning any provision of the bills.

All of us are familiar with the intent and scope of these bills dealing with expanded health care, national cemeteries, and drug and alcohol rehabilitation. Some of them were passed by the Senate in the last session of Congress but were either vetoed or else died in conference in the waning days of the 92d Congress. Under the circumstances, I will not take the time of the Senate to discuss the bills in detail. Instead, it may be more useful to undertake to attempt to put the veterans legislation package in proper perspective.

For example, I am convinced that proposed legislation serves not only the interest and welfare of veterans, but also the national interest. It is my purpose to demonstrate this conclusion.

It is unquestioned that the public policy reflected in veterans legislation is sound and wise. Such a policy arises from a moral responsibility and from human compassion. It is in the national interest to maintain the long tradition of rewarding those who serve our Nation in times of war and to adequately and justly compensate those who sacrificed their lives or suffered disabilities resulting from their service to their country. It would be a tragedy beyond compare were we to permit the slightest shadow of a doubt be cast upon our continuing commitment to this policy.

Mr. President, we are all aware that the Veterans of Foreign Wars are assembled in Washington for their legislative conference, and I am delighted that delegates from Alabama found the time to drop by my office and leave with me a copy of their legislative program. I am sure all Senators enjoyed similar visitations. But I am disturbed to have read in the preamble of the program the following excerpt:

Despite the number of veterans being at an all-time high . . . There are many signs on the horizon indicating that veterans programs are in mortal danger . . . veterans programs would soon disappear from the American scene if anti-veterans have their way.

Mr. President, we had better sit up and pay attention to this solemn judgment of the leadership of a distinguished national veterans organization. The preamble refers to recommendations, legislative proposals, and irrefutable evidence to sustain that grave judgment.

Nevertheless, I think it will serve a useful purpose to point out some of the trends and some of the attitudes which might well lead all veterans to conclude that their interests and the national interest are in jeopardy.

For one thing, it disturbs me, and I feel sure it must disturb most veterans, to witness the intensity of the demand from some quarters for amnesty for deserters and draft dodgers. The President to his great credit has taken a strong stand against amnesty but what do these demands say to the veteran? They ask, as I have asked, how, in the name of justice, can we answer to the memory of the dead and missing and to their surviving loved ones and dependents and to justify to them the sacrifices which they were called upon to make if the President were to grant amnesty for those who refused to serve their country in time of war? Shall we mock our veterans' sacrifices? Shall we tell them that they were foolish to have obeyed the laws and to have fulfilled the highest duty of citizenship? Shall we tell the prisoners of war that their sacrifices were in vain? What shall we tell the widows and children of deceased veterans who waited at the hearth in agonizing silence waiting for the sound of footsteps of the dead?

Mr. President, it would be a shame and a disgrace for this Nation to succumb to the near hysterical clamor for amnesty. Our laws have been violated. Amnesty would erase the slate as though no crime had been committed. But we know that crimes have been committed. Our civil laws have been violated by draft dodgers and our military laws have been violated by deserters.

Mr. President, I have no sympathy for those thousands of individuals who shirked their responsibilities to their country and sneaked off in a cowardly fashion seeking to escape both their duty and the penalties for failure to fulfill the responsibilities of citizenship. Yes, veterans are concerned by the attitude reflected in the clamor for amnesty.

Mr. President, let me turn now to another indication which might well give veterans cause for concern. From every direction, we hear it said that the cost of defending our Nation must be cut to the bone. It has been said that we have too many admirals, too many generals, too many men in uniform, too many antiballistic missiles, too many submarines and other naval vessels, too many tanks, too many aircraft, too many civilian employees in the Department of Defense, too much defense technology, and, of course, the necessary implication that we have too many veterans and that their benefits cost too much.

Mr. President, it is not difficult to understand that our veterans might well see in this line of reasoning a pattern of thinking that threatens their own security and that of our Nation. For, is it not true that after World War I agitation immediately began to demobilize and disarm our Nation? Is it not true that immediately following World War II we heard the same hue and cry to demobilize and disarm? Is it not true that following the Korean conflict the same voices cried out for unilateral disarmament, demobilization, and a reduction in defense expenditures?

Mr. President, these courses of action led us into war after war. Even before our prisoners of war have been fully accounted for and returned to their native land and before those who are listed as missing in action are adequately accounted for, we hear the self-same cry: "Disarm, disarm." We hear the same cry: "Demobilize, demobilize." Reduce the Armed Forces—dismantle the military establishment. Withdraw into our shell. We hear the same cries against the defense establishment. Against the military.

Yes, Mr. President, there is cause for concern when it is suggested that the agencies and instrumentalities of the Veterans' Administration should be merged, consolidated, and submerged into a socialistic conglomerate in which the veteran would be buried under the redtape of an indifferent, if not hostile, bureaucracy.

How can veterans be oblivious to the incessant drive to reduce our Nation to impotence—the drive to demean the military services—to subject the military establishment to nitpicking criticisms—and its members to scorn and ridicule? Who can remain indifferent to the mounting influence of internationalists who scoff at the unashamed patriotism of veterans—who sneer at their love of God, country, and flag it represents—who belittle their sacrifices—and who ignore their great contributions in services to their comrades, their communities, and their Nation?

Why should not our veterans wonder what might happen to them and their Nation in the light of the fact that we have already negotiated a treaty which vests nuclear superiority in the Soviet Union and which questions the integrity of our deterrent forces—when our Navy is running into rough seas with Congress while the Soviet Union is producing its first aircraft carriers in its history—when foreign aid is lavishly bestowed upon foreign nations and strongly advocated for

North Vietnam, accompanied by proposals to reduce combat disability ratings for veterans and, thus, the compensation payable to veterans, their widows, and dependents?

Mr. President, let me elaborate a moment on the proposal that suggests that the burden of rebuilding North Vietnam be placed upon the shoulders of our taxpayers. I can readily understand why veterans organizations should feel concern. In the first place, it adds a new dimension to the significance of the drastic shift of foreign policy from one of containment—call it confrontation if you will—to one of negotiation. The trouble with negotiation is that we are asked to do all the giving and the other side does all the taking.

That is bad enough, but when we abandon our determination to protect free nations from aggression, and when we cast aside our commitment to the principle of self-determination, we have turned our backs on the very causes for which our veterans were called upon to make their heroic sacrifices.

It seems to me that reasonable men would expect the Soviet Union and Communist China to help rebuild North Vietnam. After all, it was these nations whose contributions made it possible to continue the war of destruction and the killing in South Vietnam. It was these nations which supplied the North Vietnamese Communist forces with guns and ammunitions and bombs and tanks to slaughter the South Vietnamese. No, it is not unreasonable to expect the Soviet Union and Communist China to bear the major burden of building North Vietnam. In equity and good conscience, they should contribute to rebuilding South Vietnam.

Yes, I can understand why veterans are looking with jaundiced eye on trends in this Nation which foretell a retreat from greatness and a nobility of national spirit upon which our moral commitment to our veterans is grounded.

Mr. President, the veterans of our Nation are an absolutely necessary element in the national defense of our Nation. It is they who are the fighters for peace. It is they who have borne the brunt of battle. It is their proud legions who, motivated by a love of country and devotion to duty, have offered up their very bodies as human shields to preserve and protect our Nation and its institutions for this generation and for posterity.

Mr. President, without strong and vigorous support of our veterans, this Nation will have lost the greatest battle of all—the battle for survival of the national spirit. It is for this reason that I have been so often moved by the immortal verse of Rudyard Kipling expressed in the memorable line from his poem "Tommy," two excerpts of which are sufficient to convey the message:

It's Tommy this, an' Tommy that, an' "Chuck 'im out, the brute!"
But it's "Savior of 'is country,"
When the guns begin to shoot;

An' it's Tommy this, an' Tommy that,
An' anything you please;
An' Tommy ain't a bloomin' fool—
You bet that Tommy sees!

Mr. President, in conclusion, I want to advert once again to Abraham Lincoln and read the last paragraph from his Second Inaugural Address:

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.

So, Mr. President, I hope the Senate will make it known to the commander in chief of Veterans of Foreign Wars—Commander in Chief Carr—and to all veterans and veterans organizations that we have not departed from and we will not depart from our solemn obligation to care for those who shall have borne the battle and for their widows and orphans.

There being no objection, the poem "Tommy" follows:

TOMMY

I went into a public-'ouse to get a pint o' beer,
The publican 'e up an' sez, "We serve no red-coats here."
The girls be'ind the bar they laughed an' giggled fit to die,
I outs into the street again, an' to myself sez I:
O it's Tommy this, an' Tommy that, an' "Tommy go away";
But it's "Thank you, Mister Atkins," when the band begins to play,
The band begins to play, my boys, the band begins to play,
O it's "Thank you, Mister Atkins," when the band begins to play.

I went into a theater as sober as could be,
They give a drunk civilian room, but 'adn't none for me;
They sent me to the gallery or round the music-'alls,
But when it comes to fightin', Lord! they'll shove me in the stalls.
For it's Tommy this, an' Tommy that, an' "Tommy wait outside";
But it's "Special train for Atkins," when the trooper's on the tide,
The troopship's on the tide, my boys, etc.

O makin' mock o' uniforms that guard you while you sleep
Is cheaper than them uniforms, an' they're starvation cheap;
An' hustlin' drunken sodgers when they're goin' large a bit
Is five times better business than paradin' in full kit.
Then it's Tommy this, an' Tommy that, an' "Tommy 'ow's yer soul?"
But it's "Thin red line of 'eroes" when the drums begin to roll,
The drums begin to roll, my boys, etc.

We aren't no thin red 'eroes, nor we aren't no blackguards too,
But single men in barricks, most remarkable like you;
An' if sometimes our conduck isn't all your fancy paints,
Why, single men in barricks don't grow into plaster saints.
While it's Tommy this, an' Tommy that, an' "Tommy fall be'ind";
But it's "Please to walk in front, sir," when there's trouble in the wind,
There's trouble in the wind, my boys, etc.

You talk o' better food for us, an' schools, an' fires, an' all:
We'll wait for extry rations if you treat us rational.
Don't mess about the cook-room slops, but prove it to our face
The Widow's uniform is not the soldier-man's disgrace.
But it's Tommy this, an' Tommy that, an' "Chuck him out, the brute!"
But it's "Savior of 'is country" when the guns begin to shoot;
An' it's Tommy this, an' Tommy that, an' anything you please;
An' Tommy ain't a bloomin' fool—you bet that Tommy sees!

—*Rudyard Kipling.*

Mr. HANSEN. Mr. President, the distinguished Senator from South Carolina, a member of the Committee on Veterans' Affairs, and himself a veteran and general officer in the Reserve of the United States, has submitted a statement in support of the three bills we consider today—S. 49, S. 59, and S. 284.

The Senator formerly was ranking member of the Committee on Veterans' Affairs, and presently is ranking on the Committee on Armed Services. He has considerable expertise in the area of veterans bnefits. I ask unanimous consent that the Senator's statement be printed in conjunction with discussion of the merits of this legislation.

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

STATEMENT BY SENATOR THURMOND

Our Nation owes a great debt to those who have served honorably in the Armed Forces. As the Vietnam Conflict comes to a close, a grateful Nation focuses its attention on the problems of our returning servicemen.

We must seek to provide veterans benefits commensurate with the great service that our returning servicemen have given our people in defending our freedom.

At the same time, we must never fail to remember the service which the veterans of past years gave to our Nation.

Mr. President, I rise today to support three bills of great importance to the welfare of all our veterans.

First, S. 49, the proposed "National Cemeteries Act of 1973," will establish a National Cemetery System within the Veterans Administration.

This bill directs the VA to conduct a comprehensive study of our National Cemetery System and national burial policy. Burial benefits will be increased $150 for veterans who are not buried in a federal cemetery. Further, S. 49 authorizes the burial of an unknown soldier from the Vietnam Conflict in the Arlington National Cemetery.

Cemeteries administered by the Department of the Army will be transferred to the VA, with the exception of Arlington and the service academy cemeteries. The work of the American Battle Monuments Commission will not be transferred to the VA.

Mr. President, we no longer have unlimited space in our national cemeteries. It is time to reevaluate the national burial policy for veterans, and this bill represents a good approach.

Second, S. 59, the proposed "Veterans Health Care Expansion Act of 1973", is an omnibus hospital and health care bill. Provisions are made for increased salaries for professionals and training facilities for paramedics. Further, veterans may receive outpatient treatment if it alleviates the need for hospitalization. Orphans and widows of veterans who died of service-connected disabilities and wives and children of totally disabled service-connected veterans will be eligible for VA medical care as long as such care does not interfere with the furnishing of hospital and domiciliary care to eligible veterans.

Mr. President, we must insure that our VA Medical System remains the best in the world. Our veterans deserve the best medical

care our Nation can provide, and the Health Care Expansion Act represents a progressive effort in that direction.

Third. S. 284, the proposed "Veterans Drug and Alcohol Treatment and Rehabilitative Act of 1973," makes available a comprehensive treatment and rehabilitative program for our veterans who are dependent on drugs.

Mr. President, I believe that a full-scale assault on drug dependency is one of the first priorities we must face. S. 284 will provide this opportunity.

The importance of all these bills is shown by the fact that each passed the Veterans Affairs Committee without dissent.

Mr. President, I am pleased to co-sponsor each bill, and urge my colleagues to give each bill their most careful consideration.

TO HALT THE NEGLECT OF AMERICA'S VETERANS

Mr. HUMPHREY. Mr. President, I rise in strong support of the three bills before the Senate today that mark the first step by Congress to reverse incredible decisions by the Nixon administration, reflected in the proposed Federal budget for fiscal 1974, that represent an outright neglect of the serious needs of America's veterans.

The Veterans Health Care Expansion Act of 1973, S. 59, of which I am an original sponsor, would help meet the serious need for improved medical care for veterans and would expand VA health care programs to also serve certain dependents and survivors of veterans. This bill has rightly been described as designed to launch the Veterans' Administration on the most comprehensive series of medical reforms in its 42-year history.

It places new emphasis upon treating the patient as part of a family unit, and it stresses the establishment of home health care programs. It authorizes the provision of VA outpatient care and medicines to a broader category of veterans with service-connected disabilities. And it extends the provision of health care to older peacetime veterans with nonservice-connected disabilities.

Overall, there is an emphasis in this bill upon providing outpatient care, by fee or by contract where necessary, in place of extended hospitalization. Moreover, I am particularly gratified that this legislation provides for the establishment of a critically needed sickle cell anemia screening, counseling, and medical treatment program.

Of particular relevance to a serious problem on which I have publicly expressed my deep concern on numerous occasions over the past 2 years, this legislation provides for an intensive program to recruit and retain career personnel in the Department of Medicine and Surgery—meaning that there should be a substantial improvement in the staff-to-patient ratio in every VA service facility—and it requires the maintenance of an average daily patient census in VA hospital beds of not less than 85,500 in any fiscal year.

However, the proposed Veterans' Administration budget for fiscal 1974 provides a sharp contrast to these provisions. It calls for the reduction of the daily patient census in VA hospitals to 80,000. This is equivalent to closing down 11 VA hospitals with 500 beds. And *it would cut back the number of VA* medical personnel by 1,674.

But the Nixon administration does not stop here in ignoring the mandates of Congress and the critical needs of America's veterans. It intends to decrease medical research by $6 million and hospital construction by $81 million—over half of which will be taken away from planned major VA hospital construction.

No one questions the commitment of VA hospital personnel to making every possible effort to provide our veterans with quality health care. But they continue to confront obsolete facilities and serious staff shortages. In Minnesota, there is a serious need for the renovation and expansion of the medical and surgical facilities at the VA hospital at Saint Cloud, for example, and for new construction and modern outpatient clinic facilities at the VA hospital in Minneapolis. Yet the Nixon administration continues to call for economies to be made in this vital area of human need.

It is clear that decisive action must be taken by Congress to halt not only serious cutbacks in Veterans' Administration program funds, but also unilateral actions by Federal bureaucrats that will have the same effect of demonstrating a blatant disregard for the needs of America's former fighting men. It required a strong protest from Congress and the public to cause the administration to pull back for further study a plan that would have been quickly implemented to take away $160 million in benefits to physically disabled Vietnam-era veterans—a shocking, cynical decision to save money at the expense of the future of thousands of persons who have made such a direct sacrifice in the service of their country.

Having been frustrated in this course, the Nixon administration nevertheless proposes to strike a double blow against all veterans pension benefits, under the fiscal 1974 VA budget. First, this budget calls for including the wife's entire income in computing the veteran's income for his pension entitlement—meaning that over $223 million would be taken from the pockets of older veterans in the next fiscal year. But under another VA proposal, these veterans would have difficulty in getting their applications for benefits approved in any case, since it is intended that personnel in the Department of Veterans Benefits would be reduced by 1,500 persons.

Meanwhile, the National Association of Collegiate Veterans has had to go to court and enter a suit to force the U.S. Office of Education to unfreeze $25 million in congressionally approved subsidies to colleges that recruit and help ex-GI's as students. But on top of impounding these funds for start-up costs for this program by not issuing administrative guidelines, the administration has failed to request any of the $180 million authorized for this vital program in fiscal 1974. Nor has it requested $50 million authorized for a work-study program that is of crucial importance in enabling Vietnam-era veterans to meet living costs while pursuing a college education.

To compound hypocrisy, however, the *administration* puts out press releases about the success of voluntary efforts to provide job opportunities for Vietnam-era veterans, while at the same time cutting back manpower training programs, including the outright termination of the public service jobs program under the Emergency Employment Act, which will hit these veterans hard. Yet in the midst of an overall improvement in the national employment picture, the jobless rate for former GI's aged 20 to 24 remains at a crisis level of 8.6 percent.

Many would rightly regard as the last straw the renewal effort of Office of Management and Budget bureaucrats to strike the $250 burial allowance to which a veteran is entitled. I strongly support the National Cemeteries Act of 1973, S. 49, the second bill on which the Senate will hopefully take favorable action, to establish a national cemetery system within the Veterans' Administration, to stipulate the rights of veterans to burial in these cemeteries, and to sustain the authorization of the present burial allowance. In addition, the Administrator of the VA is given discretionary authority to pay up to $150 as a special allowance when a veteran is buried in a private cemetery. This allowance is clearly in order and carries through a basic recommendation made 5 years ago by the U.S. Veterans' Advisory Commission.

Finally, as a joint sponsor of the Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1973, S. 284, the third bill presently before the Senate, I strongly urge the enactment of this vitally needed legislation to require the availability of comprehensive treatment and rehabilitation services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse penalties. A recent report by the Center for the Study of Responsive Law, on veterans medical care programs, concluded that a veteran seeking treatment for drug use confronts a "Catch-22" situation in VA care: To get treatment, he should not have a bad discharge; but to get an honorable discharge, he must not have used drugs.

As the present legislation states emphatically, alcoholism and alcohol abuse are the most pervasive untreated disease and disability afflicting the Nation, including the veteran population, and the onset of such conditions has often occurred during military service. Moreover, serious problems of alcohol and drug abuse require not only medical treatment but also extensive and effective rehabilitative services. Therefore, S. 284 calls for the immediate implementation of these services to enable the patient to know a full restoration to society as a productive, self-sufficient citizen.

In addition to further authorizing the VA Administrator to contract for treatment and rehabilitative services in non-VA facilities offering community-based, multiple-modality programs, this legislation requires the VA Administrator to provide for the review of a veteran's other than honorable or general discharge related to the abuse of drugs, for the purpose of correcting this discharge and thus removing any ineligibility for benefits under this act. And in addition

to requiring the implementation of an outreach and counseling program to help these veterans, this bill calls upon the VA Administrator to provide for treatment and rehabilitative services for eligible veterans, under specified circumstances, where these veterans have been charged with or convicted of a criminal offense.

The legislation further provides for VA drug treatment programs for servicemen due to be discharged within 3 months. And it requires that all medical records maintained under provisions of this act shall remain strictly confidential, subject to a waiver of confidentiality under specified conditions, to protect the civil rights of the patient.

Mr. President, I urge the Congress to complete action on these bills without delay. The administration must understand that the elected U.S. representatives of the people are determined to halt the neglect of America's veterans under current administration policies.

Mr. KENNEDY. Mr. President, I am pleased to offer my support for the three measures pending before the Senate that are designed to improve benefits for our Nation's veterans. This is an appropriate time to consider aid for veterans of our Armed Services as news of the second group of prisoners of war signals a halt to the battles in Vietnam. Now the total number of repatriated prisoners stands at 300. As we rejoice and give thanks that these men finally have their freedom, we must also pray that all the fighting men will soon be home and that all the fighting in Southeast Asia will soon be halted.

I have been particularly concerned that we meet the demanding requirements to assist these returning prisoners in their adjustment to the vastly changed society that they left.

Less than 6 weeks ago, I introduced legislation in the Senate to permit repatriated prisoners of war from Vietnam, to retire early from service to their country.

My bill also grants per diem payments to the prisoners at the same level received by their counterparts in Saigon. These measures appear to be fitting steps for the Congress to make in assisting those returning prisoners. At the same time, I recommended administrative procedures that the Department of Defense should be obliged to adopt without additional legislation, to meet the special psychological and physical needs of the returning prisoners. I urged the Defense Department to establish continuing health programs for repatriated prisoners and their families.

And so today, we are acting on legislation, skillfully prepared by the chairman of the Veterans' Affairs Committee, that can not only help the 600 men returning from POW camps, but our actions will also provide well needed assistance for all of the 5.6 million Vietnam-era veterans. Their service clearly deserves the full thanks of a grateful Nation. And I am convinced that the Congress must respond to their appeal for adequate benefits. The measures before the Senate today deserve the approval of this Senate and I am pleased to express why I support each of them.

S. 49—National Cemeteries Act of 1973. Congressional interest in veterans' cemeteries has eixsted for over 10 years, since the Congress requested the Army to make a comprehensive review of the national cemetery program in 1961. Since that time, testimony before congressional hearings resulted in recommendations for substantial changes in our Government's policy toward funeral services provided for our deceased veterans.

In January 1968, President Johnson requested the Administrator of Veterans' Affairs to develop a national program that would assure improved burial service guarantees for our veterans. Included in the proposals offered by the Administrator was the insistence that every veteran has the right to burial in a national cemetery situated as close as possible to the veterans' home. Each veteran has obviously earned the right to an adequate supplement for burial expenses. For that reason, the bill passed by the Congress last year, and S. 49, the bill before the Senate today, is fashioned to address that deserving need. This bill increases special burial plot allowances from $250 to $400 for veterans not buried in a national or Federal cemetery. And veterans who die of service-connected disabilities are authorized up to $800 for such expenses under this bill.

Among the other provisions of S. 49 that I believe deserve concerted attention of the Senate is the section authorizing the burial of an unknown soldier from the Vietnam conflict at Arlington National Cemetery.

No memorial could be more fitting than the interment in those hallowed grounds of an unknown soldier from those tortuous battles. I wholeheartedly support that feature and all other provisions of this important legislation.

S. 59—Veterans Health Care Expansion Act of 1973. I am particularly concerned that we continue to insure adequate medical care for every veteran. Last Thursday, I had the opportunity to address a combined session of the National Legislative Commission and the Veterans' Affairs and Rehabilitation Commission of the American Legion. Before that audience, I confirmed my commitment to continue supporting the VA hospital and medical care system. In working to achieve a national health insurance program, I intend also to lend my support, wherever possible, to the deserving demand for continuing the high quality health care of the VA system. This is a time that can be singularly critical to the VA hospital system as we know it. For, the administration's design to put a lid on spending potentially threatens the very heart of VA medical and hospital care.

Two years ago, the administration arbitrarily ordered cuts in the average daily patient census in VA hospitals. That was like shutting down 17 of the operating VA hospitals. And, even though the Congress forced the census up again, the new budget will reduce it once again for fiscal 1974.

Last October, a Presidential veto killed a veteran's health bill like the one we are considering today. That bill would have improved the patient-staff ratio in VA hospitals. The purpose of the legislation was to bring the patient-staff ratio in VA hospitals more in line with that in civilian hospitals. But, the President's action forces VA doctors to continue laboring under a heavier patient load than veterans' families might receive in a civilian hospital.

During the time I have served as Health, the wide-ranging factors affecting the Nation's health delivery system have been all too clearly expressed to the committee. Yet, the VA health care system substantially justifies the effectiveness that might be realized if we put in place a high-quality health delivery system for our civilian population. With S. 59, Senator CRANSTON has expertly brought together those facets of chairman of the Subcommittee on decent medical care that properly deserve to be included in an adequate legislative package for continuing high-quality health care in the VA system. Thus, the bill strives to shore up areas in the existing VA hospital system that can reasonably expect to be immediately effective.

Since a hospital's staff-patient ratio directly affects the quality of available care, this bill authorizes $104 million to bring that ratio in VA hospitals up from less than 2 to 1 to 2.7 to 1, so that the VA hospital ratio will be comparable to the average in civilian hospitals. By increasing the number of personnel in VA hospitals, S. 59 would provide VA patients with the optimum in medical care and attention.

Unfortunately, current administration policies lean heavily toward control in spending rather than in the direction of human needs or in the area of adequate health and social care. Thus, this bill requires congressional approval for proposals to close or otherwise restrict the availability of VA hospital rooms.

Other admirable features of this legislation that deserve attention are:

First. Expanded services to screen and counsel veterans and their spouses for sickle cell anemia;

Second. Increased home health services, in-hospital treatment, and ambulatory care for disabilities whether or not service connected; and

Third. Added care facilities for wives and children of totally and permanently disabled veterans, and for widows and children of veterans who die of service-connected disabilities.

Although this measure does not respond directly to the proposed cuts in veterans disability pay, announced recently by the administration, I feel it is important for the Congress to do whatever possible to prevent those payments from being reduced. Officials in the administration seem to feel that mental problems resulting from service in Vietnam are more damaging than physical injuries. Yet, it is inconceivable that the administration feels the veteran without arms or legs deserves to lose benefits for that reason. If their assessment about the effect of mental damage is correct, then I believe we should seek ways to adequately compensate those victims who suffer mental impairment due to military service. But diverting payments from other disabled veterans is clearly the wrong way to do that.

S. 284—Veterans Drug and Alcohol Treatment and Rehabilitative Act of 1973.

This measure deals with one of the most critical and sensitive areas concerning our Nation's veterans. Up to 100,000 veterans from Vietnam are believed to have become victims of narcotics addiction. While serving their country in the turmoil of that troublesome conflict, perhaps no toll is more onerous than the debilitating effects caused by drug addiction. Though the staggering effects of narcotics abuse among the civilian population have not yet been brought under control, we must not spare any reasonable effort to aid addicted veterans. So far, I am disturbed that VA facilities have provided assistance for approximately 20,000 veterans who are dependent on drugs, though we know that 60,000 to 100,000 demand such attention. Inexplicably, the administration has also opposed this measure to insure rehabilitation and job placement services for these tragic victims who have been enslaved by narcotics. But, S. 284 includes the fundamental concepts of an adequate drug program. With supportive services, counseling and proper medical attention, this bill offers desperately needed hope to the narcotics addict, as well as substantial assistance for veterans addicted to alcohol.

I am convinced that our Government owes a substantial debt to every veteran who becomes addicted to alcohol or narcotics while serving in the Armed Forces. Nothing that we do to ease that burden for the veteran is unjustified. Therefore, I am pleased to see that S. 284 can successfully launch a full scale attack on these twin forces of destruction.

All three of the measures before the Senate today fully deserve approval. No matter what is done to control spiraling Government costs, I am convinced that we must place adequate benefits and assistance for our veterans as the Nation's No. 1 priority. All of the men and women who served during this tragic conflict were loyal and conscientious. They fought for the interests of the Nation as those interests were defined. They were the 2 million patriotic Americans—predominately the children of the poor and the working class, who went off to fight the war when they were called. Our veterans, were not able to use loopholes in military conscription laws as a shield against the explosive dangers of Vietnam. Neither were they able to find a haven in Canada or Sweden. But rather, our veterans fought this most embittered of battles and we owe them a substantial grant of aid and benefits for their courage, their loyalty, and for their devotion. These three measures, fittingly describe our thanks for their exceptional service and I believe that every Senator should vote for passage of these measures.

Mr. President, I request unanimous consent to enter at this point in the RECORD my remarks delivered before the American Legion Convention last week.

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

ADDRESS TO THE MIDWINTER CONFERENCE OF THE AMERICAN LEGION BY SENATOR EDWARD M. KENNEDY

I am pleased to be here this morning and to take part in the American Legion's Mid-Winter Conference.

All across America, the Legion upholds the respect and honor that a grateful Nation reserves for those who have defended our shores.

For over 50 years, thousands of Legion Posts have aided the millions of veterans who deserved the expert assistance that your service officers so skillfully provide.

As one of four brothers who served in the Armed Forces of this country, I can speak personally of the credit which your organization has earned for its constant support of the veteran. I have been privileged to serve as Chairman of the Senate Subcommittee on Veterans Affairs. President Kennedy served on that Subcommittee as well, and he was proud to have cast the decisive vote to assure the passage of the Cold War G.I. Bill. So the work of your group has been well known to me and the members of my family.

You have met in Washington in days of war and today we meet to celebrate the peace. While we continue to pray for the release of all the prisoners of that war, and to work for a full and complete account of those missing in action, we join in commending the President for bringing an end to these hostilities.

As our fighting men return, we must keep in mind that our service to them is just beginning. They fought unflinchingly for us, and in return we can do no less for them. For, they have served their country with honor, with dignity and with bravery. They served faithfully during a war that was more widely disputed and more seriously questioned, than any war in our country's history. Such exemplary service deserves a special tribute. That is why I expect quick action by the Congress on my bill to grant special retirement and pay benefits for returning POW's.

And I have urged the Department of Defense to speedily adopt programs to meet the special psychological and physical needs of the returning prisoners and to establish continuing health programs for repatriated prisoners and their families. My insistence that our Government pay special attention to the medical needs of these men derives from my fundamental commitment to continue guaranteeing the best possible medical care to those who have served their country. As I visit with you this morning, I shall discuss how I will support your deserving demands for separate medical facilities for our Nation's veterans. With the successful history of the specialized services offered in our VA hospitals the best way to retain those benefits would be to retain the system as you know it.

Thus, we seek to ensure the maximum benefits for our returning prisoners, we must not allow the euphoria of their homecoming to blind us from the obligations owed to all the other men and women who served with them. That debt is an important part of our historical national values, and we must not lose sight of it.

We pay tribute to these gallant men who survived, yet they would be the first to ask what of their 50,000 dead comrades who ended up in remote burial grounds, with little praise and less public attention? The returning prisoners would also ask what did the other veterans find when they came back home. They have found such a tight lid on spending that there is not enough "peace dividend" to demonstrate our gratitude for those who sacrificed so much to attain that peace. Instead, at almost every turn—in employment, in treatment for narcotics addiction, in aid to education and in disability payments—the bureaucratic machinery is grinding away the Federal assistance for those who served their country.

Is it an adequate expression of thanks to a quarter million Vietnam veterans to provide them little chance for employment because the budget eliminates Federal job training programs?

What kind of gratitude are we showing to 100,000 boys who were victimized by drugs, if we only provide funds to help 20% of them?

Is the cancellation of the Veterans Education program a proper repayment for those whose young careers were interrupted to fight for their country?

How can we justify telling 200,000 veterans maimed by this war that their disability pay must be cut to save the Veterans Administration $160 million? Such questions defy answers from men like you who have responded to your country's call at other times in our history.

You will be the first to agree that the veteran who saw action in Bien-Hoa or Hue risked the same dangers that many of you faced at Pork Chop Hill in Korea or in Anzio and Tarawa during World War II. Upon your return, a grateful Nation readily displayed its satisfaction by guaranteeing for you numerous aids and offers for assistance. Without such help many of you may not have been able to go back to school, or to find a job. VA loans enabled you to buy a house and the VA hospital and medical care system tended to your health needs.

Your National Commander, Mr. Joe L. Matthews, told the Senate Veterans Affairs Committee two days ago, that the VA budget for fiscal 1974 is insufficient in several respects. Mr. Matthews also testified that national health insurance proposals pending in the Congress are a threat to the VA medical care program. I submit that the real threat to the VA hospital system is not from Congressional proposals, but from the insensitive cuts thoughtlessly ordered at a time when the needs of our veterans are the greatest.

During the last congress, we passed a veteran's health bill to improve the patient-staff ratio in VA hospitals. But a presidential veto forced the VA doctors to continue laboring under a heavier patient load than Veterans' families might receive in a civilian hospital.

Two years ago, the Administration arbitrarily ordered cuts in the average daily patient census in VA hospitals. That was like shutting down 17 of the operating VA hospitals. And, even though the Congress forced the census up again, the new budget will reduce it once again for fiscal 1974.

Clearly, the VA hospital system has demonstrated its ability to skillfully respond to the needs of those who have completed their military service. I believe that system can and will administer the best available professional medical care to these deserving people, for the remainder of their lives.

Each of you here this morning is aware that I am working for a comprehensive national health program that can reform the methods and the services provided in our existing health delivery system for our civilian population.

Your National Commander has already expressed the Legion's fear that plans to enact a full reform of our national medical delivery system would greatly alter, if not absorb, the existing medical system operated by the VA. Let me say at this point that such a notion in no way coincides with my intent.

At present, health care is one of our most fragmented national programs. But because decent heatlh care is so important to us all it should be one of our Nation's most efficiently organized services. Health care systems that deliver efficient and expert as-

sistance do exist. In fact, the VA hospital system represents the kind of program that demonstrates what ought to be done for our civilian population. Patients in VA hospitals are not coldly diagnosed according to their ability to pay the doctor's fee, or as exotic research specimens. The VA medical system operates solely to serve the health needs of its patients. And that is precisely the goal that I seek for the system that must serve your families and your neighbors. So much of the success in proper medical care depends upon the confidence the patient has in those who provide their treatment. Thus, the hallmark of the VA system is the high degree of confidence the veterans have in their system. I am working to assure for all other Americans the delivery of high quality care like that you receive in the VA system.

In no way can national health insurance be interpreted as a threat to the special treatment the Nation is obligated to guarantee for our veterans. Quite the opposite. It will assure that in the future their families will receive adequate treatment for any injury or sickness. A veteran now is assured treatment for injury or sickness resulting from a war injury. But if his family is involved in a car accident none of them is entitled to the extensive care that he can obtain in a VA hospital. As a result, they may face severe financial disaster, with national health insurance, the veteran's family will be guaranteed the same high quality treatment, at affordable cost, for all of his famiy, whenever they need it.

No legislation that I am urging will in any way seek to erode the unique status of the VA medical system. Indeed, I am currently co-sponsoring with Senator Cranston, the Veterans Health Care Expansion Act of 1973. That bill is specifically designed to extend and to enhance the VA medical system to ensure that our Nation's veterans will receive the highest quality health care that modern medical technology can provide.

Far from being a threat to the VA medical system, I think that the existing VA system has a lot to teach us, and that we should try to emulate the total care concepts which you practice so well. To destroy a system which provides such superlative health care would be a social irresponsibility. On the other hand, I see national health insurance, quite simply, as something which America can offer all of its people, who are presently denied access to decent health assistance. By placing adequate medical care and preventive medical attention within the reach of all of our people, I believe we can use national health insurance to vastly improve the quality of life for every citizen in our great country. It is not something which veterans should fear, it is designed only to make this country a better place in which to live.

Legionnaires are proud of their dedication to the fight for freedom. The fight for national health insurance is also a fight for freedom. It will free all Americans from the terror of financial hardship or disaster as a result of prolonged illness. It is a fight to ensure a fuller and freer life to you and to your children. It is a fight for a better future. It is a fight in which you and I are on the same side and I ask all of you here today to join me.

If my visit this morning with you can hold any meaning at all, then it should be to reconfirm our commitment to provide maximum benefits and services for those who went and served in this war, just as we have done for those who served in other wars.

And we well remember your devoted service. You have my pledge to obtain quick action by the Congress to restore pension benefits for those veterans affected by rises in social security payments. I pledge as well to fight for rapid approval of the measure to increase cemetery expenses for deceased veterans.

Every American has shared in the pride and relief as the returning POW's and their families have been reunited on our TV screens these last two weeks. And we all joined in the lavish national praise offered up to these men whose release was the brightest signal that the Vietnam fighting had ended. But I am convinced we owe an equally substantial grant of aid and benefits to the hundreds of thousands who came back wtihout being forced to suffer the searing experience of captivity.

I gratefully accepted your invitation this morning to explain my intent to work with you for the continued operation of the VA medical system. But I also want to solicit your support and your ceaseless devotion to the needs of your comrades from our Nation's most troublesome war. We must remember that the men and women who served in Vietnam were conscientious and loyal. They did what was asked of them when they went off to fight that war. Now, it is up to us to do all in our power to show our thanks for their exceptional service.

Mr. JAVITS. Mr. President, I would like to comment on and lend my every support to the three bills reported by the Veterans' Affairs Committee which are now before the Senate, S. 59, S. 49, and S. 284.

In the many years I have served in both the House and the Senate, I have seen the Congress seek the initiative in providing the recognition of our Nation's veterans and their problems. With America's military role in Vietnam and the honorable service of the 2½ million veterans who served their completed, we need to continue merited services to the veteran and his family. To the disabled veteran, a nation owes a great debt. For the 2.2 million veterans with service connected disabilities, and in particular the 206,000 disabled Vietnam veterans, there is much to be done.

The Senate's consideration of this important legislation affecting veterans' drug treatment and rehabilitation, medical care and cemeterial expenses comes at a time when there has been recent public discussion on veterans health care and disability rating.

Since the Veterans' Administration's proposal to change the disability rates for Vietnam-era veterans, I have received close to 1,000 letters of public outcry against any disability payment reduction. This strong spirit voiced by New York citizens, as well as similar communications received by my fellow colleagues, was heard and I feel certain resulted in the withdrawal by the VA of such a disability rate change.

Within the past few days the news media reported in a study by the Center for the Study of Responsive Law, criticism of the current veterans medical rehabilitative services and the administrative procedure for service discharge due to drug use. There appears to be a "catch 22" in a veterans' eligibility for drug rehabilitation, whereby, "To get treatment for drug use, one must have a 'good discharge,' not a 'bad' one. But to get a good discharge, one must not use drugs." I believe we must provide the veteran with realistic and timely assistance when the need is present.

The three bills we discuss today, S. 49, the National Cemeteries Act of 1973, S. 59, Veterans' Health Care Expansion Act of 1973, and S. 284, Veterans' Drug and Alcohol Treatment and Rehabilitative Act of 1973, are directed toward the goal.

NATIONAL CEMETERIES ACT OF 1973, S. 49

The proposal of a national cemetery system has been discussed by the Congress for over 10 years and has had varied executive department opinion, including the Presidential pocket veto of last year's National Cemeteries Act. In 1968 a Presidential appointed U.S. Veterans' Advisory Commission recommended in part that the VA conduct the operation of Federal cemeteries and that burial allowances be payable to those veterans not buried in national cemeteries.

These recommendations are noteworthy in view of the present veteran burial system with varied burial eligibility requirements and the limited space available in our national cemeteries scattered throughout this country.

The critical situation of our national burial policy is made clear when we contrast the 28 million veterans, eligible under present law—50 million with dependents included—to the approximately 1 million actual and potential grave sites available in all national cemeteries. In New York State, where there are three national cemeteries and one VA cemetery, burial space for veterans is negative. As of last year these cemeteries had a total of 282,000 developed graves with over 1 million interments and zero additional acreage for burial development.

Centralization of Federal cemetery policy and operation under the Veterans' Administration is the first step toward the orderly development of a national cemetery system. This is the basis of S. 49, the National Cemeteries Act of 1973. The jurisdiction by the VA of our national cemeteries is logical in view of the fact that more than 95 percent of the internments in national cemeteries are of veterans.

In addition to the transfer of most cemeteries under the jurisdiction of the Department of Army to the VA, S. 49 provides the following:

Directs the VA to conduct a comprehensive study and submit recommendations as to what our national cemetery system and national burial policy should be.

Authorizes a special burial plot allowance of $150 in a case where a veteran is not buried in a national or other Federal cemetery.

Additional benefits of up to $800 are authorized for veterans who die of service-connected disabilities.

Authorizes the burial of any unidentified soldier who fell in Vietnam at Arlington National Cemetery who served in South East Asia and lost his life during the Vietnam era.

VETERANS DRUG AND ALCOHOL TREATMENT AND REHABILITATION ACT OF 1973, S. 284

Mr. President, I strongly support the "Veterans' Drug and Alcohol Treatment and Rehabilitation Act of 1973" (S. 284) and have long been deeply concerned about the Veterans' Administration's drug treatment programs. The plight of the addicted and drug-abusing serviceman has only added measurably to making drug addiction a national issue.

I was not convinced that the present VA drug treatment program was doing enough for the addicted veterans in New York. I expressed my concern about the adequacy and capability of the VA to deal effectively with addicted veterans in New York to the VA Administrator and last year arranged a meeting between senior VA officials and the Deputy Director of the President's Special Action Office for Drug Abuse Prevention with New York City and State officials to see what more could be done to aid addicted veterans.

One thing became clear as the result of that meeting: The need for additional legislation—as set forth in this bill—which would provide the VA authority to contract with approved community programs for treatment and rehabilitation of addicted veterans.

The city and State of New York continue to do all within their powers, but the Federal Government must pledge itself, through the VA, to a substantial commitment. If we are to adequately care for our addicted veterans, the VA should contract or purchase services from State, city, and community institutions with expertise in drug rehabilitation. These institutions constitute a reservoir of valuable experience in dealing with narcotics abuse and could prove to be of great benefit to the VA's own efforts to deal with the narcotics problem. This bill would accomplish that result. It seeks a solution to the critical addicted veteran problem and would provide more effective treatment to the thousands of New York addicted Vietnam era veterans.

In New York City, there is no question that thousands of drug-abusing veterans are already back home and out of uniform, adding tragic reinforcement to the addict ranks of a city that acknowledges the deep seriousness of its drug control problem. There is no question that action is required to generate meaningful services for those in desperate need. This bill will enable us to meet our obligations to individuals who have served their Nation, only to become ensnared in a sickness far more debilitating even than the battleground wounds usually associated with war.

The signing of the "Comprehensive Alcoholism Prevention, Treatment and Rehabilitation Act of 1970" into law marked a most historic day in the national struggle against alcoholism and the end of a legislative struggle which began in 1966, when I introduced the first alcoholism bill with Senator Moss of Utah and which culminated in passage of the bill which I introduced in this Congress with Senator HUGHES of Iowa, Senator Moss, and more than 50 cosponsors.

I am, therefore, pleased that the pending bill will authorize the VA to utilize more effectively its enormous resources in the stepped-up national fight against alcoholism and reduce the enormous toll taken by alcoholism and alcohol abuse on our society.

VETERANS' HEALTH CARE EXPANSION ACT OF 1973, S. 59

Mr. President, S. 59, the Veterans' Health Care Expansion Act of 1973, provides a major undertaking to improve the ability of the VA to deliver quality medical care to its beneficiaries.

The contents of S. 59 are the result of extensive VA medical care oversight hearings conducted in the 91st and 92d Congress by the Senate Veterans' Affairs Committee. It was found that the potential increase in health care to the 6 million Vietnam era veterans combined with the aging of World War II veteran population, promised increased demands on the VA hospitals and medical programs in terms of staff and facilities. Moreover, the committee learned that there will be greater need by VA hospitals to update medical equipment and personnel training to meet the rapid technological advances occurring continually in the medical community. The Veterans' Health Care Expansion Act of 1973, S. 59, provides this needed medical services to those citizens who served their country in the Armed Forces.

The major provisions of S. 59 are the following:

First. Treating the veteran as part of a family unit. The inclusion of a veteran's family, especially in psychiatric treatment, is essential to many rehabilitation programs. Under S. 59 provision would be made for family members of a veteran to function in closer relationship to health care institutions and personnel in the surrounding community. Home health care by visiting medical teams would be broadened to provide more compassionate and more economical care.

Second. Provides veterans with 80 percent or more service-connected disabilities, eligibility for outpatient care and medicines for all their non-service-connected disabilities regardless of their financial status or future need for hospitalization.

Third, to the peacetime veterans whose service ended prior to April 6, 1917 and those who served between January 1, 1947 and June 27, 1950, and who suffer from non-service-connected disabilities and unable to afford private care, they will be eligible to receive VA hospital, nursing home and certain outpatient care.

Fourth. For the first time wives and children of veterans with total service-connected disabilities and widows and orphans of veterans who died from service-connected disabilities will be eligible for VA medical care if they are not covered by medicare, medicaid, or a military medical benefit program.

Fifth. Outpatient care will be expanded to all eligible VA health care beneficiaries if such outpatient care treatment would obviate the need for hospitalization.

Sixth. A comprehensive sickle cell anemia screening, counseling, and medical treatment program is established for requesting veterans and their spouses. Also authority would be given to the VA to carry out a special research and training program in the prevention, diagnosis, and treatment of sickle cell anemia based upon screening examinations and treatment.

Seventh. Provides for the expansion of nursing home care by permitting veterans and eligible dependents direct admission to a VA nursing home without prior VA hospitalization. S. 59 also doubles the present statutory minimum of VA nursing home beds from 4,000 to 8,000 by fiscal year 1974.

Eighth. Requires the VA to raise the staff-to-patient ratio in every VA service facility to the point where such facilities will be comparable on a service-by-service basis with other comparable medical services and facilities in the community.

Ninth. Improves and expands the Department of Medicine and Surgery personnel system with added incentive for the VA to compete more effectively for scarce health professionals. Emphasis will be placed upon the recruitment, training and employment by the VA of recent veterans with medical specialties.

Mr. President, these three veteran bills should be adopted if the Congress is to continue their responsibility to the veteran and his family. We are all aware, I am sure, that these bills received the overwhelming support of both Houses in the 92d Congress, and I urge the Senate once again to reaffirm proper support for the American veteran as encompassed in S. 49, S. 59, and S. 284.

Mr. EAGLETON. Mr. President, I am pleased to support the passage of S. 59, the Veterans Health Care Expansion Act; S. 49, the National Cemeteries Act; and S. 284, the Veterans' Drug and Alcohol Treatment and Rehabilitation Act.

The first two bills were among those pocket-vetoed by the President following the adjournment of the 92d Congress. S. 284, the drug treatment bill, is similar to a bill passed by the Senate last fall which died when there was insufficient time to reach a compromise with the House of Representatives.

I believe it is essential that these measures be enacted into law this year—if necessary by overriding Presidential vetoes.

S. 59 is designed to expand and improve the quality of the medical care available to veterans and certain of their dependents.

It would upgrade the quality of hospital care and expand nursing home care, outpatient care, and home health services for veterans.

It would make medical care available to wives and children of totally disabled service-connected veterans, to widows, and children of veterans who die from service-connected disabilities, and to certain peacetime veterans.

It would establish a voluntary, comprehensive sickle cell anemia screening and counseling program for veterans and their spouses.

The basic purpose of S. 49 is to establish, within the Veterans' Administration, a national cemetery system for the interment of deceased servicemen and veterans.

In addition, it authorizes a special burial plot allowance of $150, in addition to the present allowance of $250, where a veteran is buried in other than a Federal cemetery. Additional burial benefits of up to $800 are authorized for those who die of service-connected disabilities.

Finally, S. 284 would establish a vitally needed comprehensive drug and alcohol treatment and rehabilitation program for veterans regardless of the nature of their discharge or of whether their addiction is service connected.

At present the VA does not have the authority to provide drug treatment for

some 18,000 Vietnam veterans who have received less than an honorable or general discharge.

This bill places emphasis not just on detoxification but on the rehabilitation services and job placement assistance necessary to return these men to normal, productive lives.

Mr. President, this Nation owes much to all of its veterans, but to none more than the veterans of Vietnam. They are the men who have borne the real burden of this unpopular and unfortunate war. All too many of them now bear its physical and emotional scars.

For them there have been no victory parades. Instead they have come home to the vetoing of bills to provide the medical care and rehabilitation services they need, to proposals for reducing their disability compensation, to impoundment of funds appropriated for their education, and to cutbacks in programs for their training and employment.

Unless Congress acts decisively, these men are in danger of becoming the real MIA's of the Vietnam war.

With these bills which the Senate has now passed for the second time, the Veterans' Administration is given the authority to provide Vietnam veterans—and veterans of previous wars—medical care of the kind and quality they need and deserve to have.

Mr. BUCKLEY. Mr. President, this morning one of my legislative assistants advised me that in a few hours time I would be expected to vote on S. 59. He further advised me that—

First, the bill was expected to be similar to a bill that had been vetoed last year because of fiscal considerations;

Second, the amount to be appropriated by S. 59 is identical to the amount appropriated in the vetoed bill;

Third, it was understood that whereas some significant changes had been made in the provisions of S. 59;

Fourth, my assistant was not in a position to advise me as to the nature of the changes because the committee report explaining the bill was not yet available.

I understand, Mr. President, that the report in question has now been circulated, but it is totally unreasonable to assume that I and my other colleagues not members of the Committee on Veterans' Affairs will have had the opportunity to digest the more than 100 pages of the committee report by the time the bells ring to summon us to the floor to vote on it. This extraordinary haste is grounds enough to refuse to vote favorably on the legislation. I will base my adverse vote, however, on other grounds.

As I have already done twice this session in connection with other legislation, I will vote against this measure not on the basis of intrinsic merit but on the basis of an overriding need to reestablish a sense of fiscal responsibility in this body. Once again we are witnessing an absolute refusal on the part of the Senate to try to reconcile aggregate appropriations for the current year with the $250 billion which the Senate last October agreed was the upper limit of what the Federal Government could prudently spend. I know I am voting against a "misunderstood" bit of legislation. I suggest, however, that the workers—and the veterans—of America would rather have us scrutinize each new appropriation and fit it into a comprehensive, responsible Federal budget, than invite a renewal of inflation or an increase in taxes through helter-skelter spending.

SENATOR RANDOLPH ACTIVELY SUPPORTS HEALTH CARE PROGRAMS FOR VETERANS

Mr. RANDOLPH. Mr. President, I support the Veterans' Health Care Expansion Act of 1973. It is my privilege to cosponsor this vital measure. As a member of the Senate Committee on Veterans, I have worked closely with the membership of our committee in the development of S. 59 and in bringing it to the Senate floor. As Senators know, this bill is one of the vetoed measures on which the Congress did not have an opportunity last year to consider the veto. It was my belief then and continues to be my belief that the President made a critical mistake in rejecting a measure so vital to the health care of our veterans and to the VA system which must provide that health care. I hope that this year the President will sign the Veterans' Health Care Expansion Act into law. But, at this moment, what the President may or may not do is not the critical issue. The important element today is that the Senate work its will on S. 59—and I am confident that the will of the Senate will be overwhelming approval of S. 59.

Mr. President, the Veterans' Health Care Act of 1973 will increase significantly the quality of VA health care; extend this health care to additional veterans and survivors who deserve and need this assistance; and strengthen the VA hospital system.

Mr. President, the Senator from California (Mr. CRANSTON) has discussed the provisions of S. 59. I comment briefly on the major provisions of the bill.

The measure would expand VA health care programs and authorize ambulatory outpatient care for veterans where needed to forestall hospitalization. This provision is in keeping with the trend in health care programs and is certainly needed as a part of the VA system. Disabled veterans with a rated disability of 80 percent or more will become eligible for additional VA medical care under S. 59. Further, peacetime veterans who are suffering from non-service-connected disabilities and unable to afford private care will be provided health care. Full VA medical care would be made available to widows and orphans of veterans who have died of service-connected disabilities and to wives and children of totally disabled veterans. To strengthen our VA hospital system, S. 59 would require the VA to provide for an average of no less than 98,500 operating hospital beds and an average daily patient census of 85,500, and to maintain the census at no less than 82,000. The Office of Management and Budget has constantly endeavored to limit the number of available hospital beds and to arbitrarily reduce the daily patient census in order to reduce the VA budget. It is essential that the Congress act affirmatively to prevent such arbitrary reductions and to insure that hospital beds are available when needed by our veterans population. This provision will help achieve that objective. S. 59 also would require increases in VA hospital staff-to-patient ratios where warranted. Finally, S. 59 would provide overtime and premium pay to VA nurses similar to benefits now paid to other Federal nurses.

Mr. President, this is an important measure for the veterans of our Nation. We have a commitment to these men and women who have served in our Armed Forces to insure strong national defense and the freedoms of this Republic. But that commitment must be backed with affirmative action and programs and the funds to carry out these programs. It is not enough to say how thankful our Nation is and how deserving are our veterans. Our gratitude is best manifested by viable and comprehensive health care and pension programs, adequately funded and properly administered. S. 59, the Veterans Health Care Expansion Act is a vital part of the commitment to the veterans of our Nation.

I commend the Senator from California (Mr. CRANSTON) for his diligence and effectiveness in bringing this measure to the Senate. He is a true advocate and friend of our veterans. Additionally, I stress the cooperation and efforts of the Senator from Indiana (Mr. HARTKE), chairman of our committee and the Senator from Wyoming (Mr. HANSEN), ranking minority member; and all members in developing this bill.

I strongly endorse S. 59 and urge the Senate to approve it.

The PRESIDING OFFICER. Do Senators yield back their remaining time?

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Ohio yield back the remainder of his time?

Mr. SAXBE. Yes.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and was read the third time.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). 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 assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Carolina (Mr. ERVIN), the Senator from Michigan (Mr. HART), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS), the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. BAYH), and the Senator from South Dakota (Mr. ABOUREZK) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Michigan (Mr. GRIFFIN) are detained on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 86 nays 2, as follows:

[No. 32 Leg.]

YEAS—86

Aiken	Fong	Metcalf
Allen	Fulbright	Mondale
Baker	Gravel	Montoya
Bartlett	Gurney	Moss
Beall	Hansen	Muskie
Bellmon	Hartke	Nelson
Bentsen	Haskell	Nunn
Bible	Hatfield	Pastore
Biden	Hathaway	Pearson
Brock	Helms	Pell
Brooke	Hollings	Percy
Burdick	Hruska	Proxmire
Byrd, Harry F., Jr.	Huddleston	Randolph
Byrd, Robert C.	Hughes	Ribicoff
Cannon	Humphrey	Roth
Case	Inouye	Saxbe
Chiles	Jackson	Schweiker
Church	Javits	Scott, Pa.
Clark	Johnston	Scott, Va.
Cook	Kennedy	Sparkman
Cotton	Long	Stafford
Cranston	Magnuson	Stevens
Curtis	Mansfield	Stevenson
Dole	Mathias	Symington
Domenici	McClellan	Taft
Dominick	McClure	Talmadge
Eagleton	McGee	Tower
Eastland	McGovern	Weicker
	McIntyre	Young

NAYS—2

Bennett	Buckley

NOT VOTING—12

Abourezk	Goldwater	Stennis
Bayh	Griffin	Thurmond
Ervin	Hart	Tunney
Fannin	Packwood	Williams

So the bill (S. 59) was passed.

(NOTE.—The text of the bill as passed is identical to the text printed in the RECORD at the point where the Senate proceeded to consider it.)

The title was amended, so as to read: "A bill to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes."

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate may be permitted to make technical changes in the engrossment of the bill (S. 59) just passed.

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

NATIONAL CEMETERIES ACT OF 1973

The PRESIDING OFFICER (Mr. HASKELL). Under the previous unanimous-consent agreement, the Senate will now proceed to the consideration of Calendar No. 61, S. 49, which the clerk will state.

The legislative clerk read as follows:

S. 49, to amend title 38 of the United States Code in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with amendments, on page 17, line 7, after the word "Soldiers' ", insert "and Airmen's"; on page 37, after line 21, strike out:

SEC. 10. (a) Notwithstanding any other provision of law, no real property under the jurisdiction or control of the Veterans' Admiinstration 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 one hundred acres, unless the transfer of such property is specifically authorized by a law enacted after October 1, 1972, or unless such property is transferred pursuant to authority contained in title 38, United States Code; 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 one hundred acres or less, unless written notice of the proposed transfer of such property is given to the Committees on Veterans' Affairs of the Senate and the House of Representatives at least thirty days prior to the transfer of such property.

On page 38, at the beginning of line 20, change the section number from "11" to "10"; and, at the beginning of line 21, strike out "8, and 10" and insert "and 8"; so as to make the bill read:

S. 49

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

SEC. 2. (a) Part II of title 38, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 24—NATIONAL CEMETERIES AND MEMORIALS

"Sec.
"1000. Establishment of National Cemetery System; composition of such system; appointment of director.
"1001. Advisory committee on cemeteries and memorials.
"1002. Persons eligible for interment in national cemeteries.
"1003. Memorial areas.
"1004. Administration.
"1005. Disposition of inactive cemeteries.
"1006. Acquisition of lands.
"1007. Authority to accept and maintain suitable memorials.

"§ 1000. Establishment of National Cemetery System; composition of such system; appointment of director

"(a) There shall be within the Veterans' Administration a National Cemetery System for the interment of deceased servicemen and veterans. To assist him in carrying out his responsibilities in administering the cemeteries within the System, the Administrator may appoint a Director, National Cemetery System, who shall perform such functions as may be assigned by the Administrator.

"(b) The National Cemetery System shall consist of—

"(1) national cemeteries transferred from the Department of the Army to the Veterans' Administration by the National Cemeteries Act of 1973;

"(2) cemeteries under the jurisdiction of the Veterans' Administration on the date of enactment of this chapter; and

"(3) any other cemetery, memorial, or monument transferred to the Veterans' Administration by the National Cemeteries Act of 1973, or later acquired or developed by the Administrator.

"§ 1001. Advisory Committee on Cemeteries and Memorials

"There shall be appointed by the Administrator an Advisory Committee on Cemeteries and Memorials. The Administrator shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which he is responsible, and with respect to the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee shall make periodic reports and recommendations to the Administrator and to Congress.

"§ 1002. Persons eligible for internment in national cemeteries

"Under such regulations as the Administrator may prescribe and subject to the provisions of section 3505 of this title, the remains of the following persons may be buried in any open national cemetery in the National Cemetery System:

"(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, or air service).

"(2) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while he is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while he is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

"(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while he is—

"(A) attending an authorized training camp or on an authorized practice cruise;

"(B) performing authorized travel to or from that camp or cruise; or

"(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while he is—

"(i) attending that camp or on that cruise;

"(ii) performing that travel; or

"(iii) undergoing that hospitalization or treatment at the expense of the United States.

"(4) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, and whose last such service terminated honorably.

"(5) The wife, husband, surviving spouse, minor child, and, in the discretion of the Administrator, unmarried adult child of any of the persons listed in paragraphs (1) through (4).

"(6) Such other persons or classes of persons as may be designated by the Administrator.

"§ 1003. Memorial areas

"(a) The Administrator shall set aside, when available, suitable areas in national cemeteries to honor the memory of members of the Armed Forces missing in action, or who died or were killed while serving in such forces and whose remains have not been identified, have been buried at sea or have been determined to be nonrecoverable.

"(b) Under regulations prescribed by the Administrator, appropriate memorials or markers shall be erected to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.

"§ 1004. Administration

"(a) The Administrator is authorized to make all rules and regulations which are necessary or appropriate to carry out the provisions of this chapter, and may designate those cemeteries which are considered to be national cemeteries.

"(b) In conjunction with the development and administration of cemeteries for which he is responsible, the Administrator shall provide all necessary facilities including, as necessary, superintendents' lodges, chapels, crypts, mausoleums, and columbaria.

"(c) Each grave in a national cemetery shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Administrator shall by regulation prescribe.

"(d) There shall be kept in each national cemetery, and at the main office of the Veterans' Administration, a register of burials in each cemetery setting forth the name of each person buried in the cemetery, the number of the grave in which he is buried, and such other information as the Administrator by regulation may prescribe.

"(e) In carrying out his responsibilities under this chapter, the Administrator may contract with responsible persons, firms, or corporations for the care and maintenance of such cemeteries under his jurisdiction as he shall choose, under such terms and conditions as he may prescribe.

"(f) The Administrator is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the State or political subdivision to which such conveyance is to be made notifies the Administrator in writing of its willingness to accept and maintain the road included in such conveyance. Upon the execution and delivery of such a conveyance, the jurisdiction of the United States over the road conveyed shall cease and thereafter vest in the State or political subdivision concerned.

"(g) Notwithstanding any other provision of law, the Administrator may at such time as he deems desirable, relinquish to the State in which any cemetery, monument, or memorial under his jurisdiction is located, such portion of legislative jurisdiction over the lands involved as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of jurisdiction under the authority of this subsection may be made by filing with the Governor of the State involved a notice of such relinquishment and shall take effect upon acceptance thereof by the State in such manner as its laws may prescribe.

"§ 1005. Disposition of inactive cemeteries

"(a) The Administrator may transfer, with the consent of the agency concerned, any inactive cemetery, burial plot, memorial, or monument within his control to the Department of the Interior for maintenance as a national monument or park, or to any other agency of the Government. Any cemetery transferred to the Department of the Interior shall be administered by the Secretary of the Interior as a part of the National Park System, and funds appropriated to the Secretary for such system shall be available for the management and operation of such cemetery.

"(b) The Administrator may also transfer and convey all right, title, and interest of the United States in or to any inactive cemetery or burial plot, or portion thereof, to any State, county, municipality, or proper agency thereof, in which or in the vicinity of which such cemetery or burial plot is located, but in the event the grantee shall cease or fail to care for and maintain the cemetery or burial plot or the graves and monuments contained therein in a manner satisfactory to the Administrator, all such right, title, and interest transferred or conveyed by the United States, shall revert to the United States.

"(c) If a cemetery not within the National Cemetery System has been or is to be discontinued, the Administrator may provide for the removal of remains from that cemetery to any cemetery within such System. He may also provide for the removal of the remains of any veteran from a place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

"§ 1003. Acquisition of lands

"As additional lands are needed for national cemeteries, they may be acquired by the Administrator by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, or otherwise, as he determines to be in the best interest of the United States.

"§ 1007. Authority to accept and maintain suitable memorials

"Subject to such restrictions as he may prescribe, the Administrator may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. He may make land available for this purpose, and may furnish such care and maintenance as he deems necessary."

(b) The table of chapters of part II and the table of parts and chapters of title 38, United States Code, are each amended by inserting immediately below

"23. Burial benefits ..... 901".

the following:

"24. National cemeteries and memorials ..... 1000".

(c) Section 5316 of title 5, United States Code, is amended by striking out:

"(131) General Counsel of the Equal Employment Opportunity Commission."

and inserting in lieu thereof the following:

"(132) General Counsel of the Equal Employment Opportunity Commission.

"(133) Director, National Cemetery System, Veterans' Administration."

SEC. 3. (a) The Administrator shall conduct a comprehensive study and submit his recommendations to Congress within six months after the convening of the first session of the Ninety-third Congress concerning:

(1) criteria which govern the development and operation of the National Cemetery System, including the concept of regional cemeteries;

(2) the relationship of the National Cemetery System to other burial benefits provided by Federal and State governments to servicemen and veterans;

(3) steps to be taken to conform the existing System to the recommended criteria;

(4) the private burial and funeral costs in the United States;

(5) current headstone and marker programs; and

(6) the marketing and sales practices of non-Federal cemeteries and interment facilities, or any person either acting on their behalf or selling or attempting to sell any rights, interest, or service therein, which is directed specifically toward veterans and their dependents.

(b) The Administrator shall also, in conjunction with the Secretary of Defense, conduct a comprehensive study of and submit their joint recommendations to Congress within six months after the convening of the first session of the Ninety-third Congress concerning:

(1) whether it would be advisable in carrying out the purposes of this Act to include the Arlington National Cemetery within the National Cemetery System established by this Act;

(2) the appropriateness of maintaining the present eligibility requirements for burial at Arlington National Cemetery; and

(3) the advisability of establishing another national cemetery in or near the District of Columbia.

SEC. 4. (a) Subchapter II of chapter 3 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations

"(a) For the purpose of maintaining law and order and of protecting persons and property on lands (including cemeteries) and in buildings under the jurisdiction of the Veterans' Administration (and not under the control of the Administrator of General Services), the Administrator or any officer or employee of the Veterans' Administration duly authorized by him may—

"(1) make all needful rules and regulations for the governing of the property under his charge and control, and annex to such rules and regulations such reasonable penalties within the limits prescribed in subsection (b) of this section as will insure their enforcement. Such rules and regulations shall be posted in a conspicuous place on such property;

"(2) designate officers and employees of the Veterans' Administration to act as special policemen on such property and, if the Administrator deems it economical and in the public interest, with the concurrence of the head of the agency concerned, utilize the facilities and services of existing Federal law-enforcement agencies, and, with the consent of any State or local agency, utilize the facilities and services of such State or local law-enforcement agencies; and

"(3) empower officers or employees of the Veterans' Administration who have been duly authorized to perform investigative functions to act as special investigators and to carry firearms, whether on Federal property or in travel status. Such special investigators shall have, while on real property under the charge and control of the Veterans' Administration, the power to enforce Federal laws for the protection of persons and property and the power to enforce rules and regulations issued under subsection (a)(1) of this section. Any such special investigator may make an arrest without a warrant for any offense committed upon such property if he has reasonable ground to believe (A) the offense constitutes a felony under the laws of the United States, and (B) that the person to be arrested is guilty of that offense.

"(b) Whoever shall violate any rule or regulation issued pursuant to subsection (a) (1) of this section shall be fined not more than $50 or imprisoned not more than thirty days, or both."

(b) Section 625 of title 38, United States Code, is hereby repealed.

(c) (1) The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by inserting immediately after—

"217. Studies of rehabilitation of disabled persons."

the following:

"218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations.".

(2) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by striking out—

"625. Arrests for crimes in hospital and domiciliary reservations.".

SEC. 5. (a) Chapter 23 of title 38, United States Code, is amended by—

(1) amending section 903 to read as follows:

"§ 903. Death in Veterans' Administration facility; plot allowance

"(a) Where death occurs in a Veterans' Administration facility to which the deceased was properly admitted for hospital or domiciliary care under section 610 or 611 of this title, the Administrator—

"(1) shall pay the actual cost (not to exceed $250) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration; and

"(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

"(b) In addition to the foregoing, if such a veteran, or a veteran eligible for a burial allowance under section 902 of this title, is not buried in a national cemetery or other cemetery under the jurisdiction of the United States, the Administrator, in his discretion, having due regard for the circumstances in each case, may pay a sum not exceeding $150, as a plot or interment allowance to such person as he prescribes. In any case where any part of the plot or interment expenses have been paid or assumed by a State, any agency or political subdivision of a State, or the employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities."; and

(2) adding at the end of such chapter the following new sections:

"§ 906. Headstones and markers

"(a) The Administrator shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

"(1) Any individual buried in a national cemetery or in a post cemetery.

"(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in section 1002(a) (4), (5), and (6) of this title.

"(3) Soldiers of the Union and Confederate Armies of the Civil War.

"(b) The Administrator shall furnish, when requested an appropriate memorial headstone or marker to commemorate any veteran dying in the service, and whose remains have not been recovered or identified or were buried at sea, for placement by the applicant in a national cemetery area reserved for such purposes under the provisions of section 1003 of this title, or in any private or local cemetery.

"§ 907. Death from service-connected disability

"In any case in which a veteran dies as a result of a service-connected disability or disabilities, the Administrator, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of any benefits authorized under sections 902 and 903(a) (1) and (b) of this title."

(b) The table of sections at the beginning of chapter 23 of title 38, United States Code, is amended—

(1) by striking out

"903. Death in Veterans' Administration facility."

and inserting in lieu thereof

"903. Death in Veterans' Administration facility; plot allowance.";

and

(2) by adding at the end thereof the following items:

"906. Headstones and markers.

"907. Death from service-connected disability.".

SEC. 6. (a) (1) There are hereby transferred from the Secretary of the Army to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, (A) all national cemeteries (except the cemetery at the United States Soldiers' *and Airmen's* Home and Arlington National Cemetery), and (B) any other cemetery (including burial plots), memorial, or monument under the jurisdiction of the Secretary of the Army immediately preceding the effective date of this section (except the cemetery located at the United States Military Academy at West Point) which the President determines would be appropriate in carrying out the purposes of this Act.

(2) There are hereby transferred from the Secretary of the Navy and the Secretary of the Air Force to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, any cemetery (including burial plots), memorial, or monument under the jurisdiction of either Secretary immediately preceding the effective date of this section (except those cemeteries located at the United States Naval Academy at Annapolis, the United States Naval Home Cemetery at Philadelphia, and the United States Air Force Academy at Colorado Springs) which the President determines would be appropriate in carrying out the purposes of this Act.

(b) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available to, or under the jurisdiction of, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, in connection with functions transferred by this Act, as determined by the Director of the Office of Management and Budget, are transferred to the Administrator of Veterans' Affairs.

(c) All offenses committed and all penalties and forfeitures incurred under any of the provisions of law amended or repealed by this Act may be prosecuted and punished in the same manner and with the same effect as if such amendments or repeals had not been made.

(d) All rules, regulations, orders, permits, and other privileges issued or granted by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force will respect to the cemeteries, memorials, and monuments transferred to the Veterans' Administration by this Act, unless contrary to the provisions of such Act, shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator of Veterans' Affairs, by any court of competent jurisdiction, or by operation of law.

"(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an official of the Department of the Army, the Department of the Navy, or the Department of the Air Force with respect to functions transferred under subsection (a) or (c) of this section shall abate by reason of the enactment of this section. No cause of action by or against any such department with respect to functions transferred under such subsection (a) or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this section. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such officer of the Veterans' Administration as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, upon its own motion or that of any party, enter an order which will give effect to the provisions of this subsection. If before the date this section takes effect, any such department, or officer thereof in his official capacity, is a party to a suit with respect to any function so transferred, such suit shall be continued by the Administrator of Veterans' Affairs.

SEC. 7. (a) The following provisions of law are repealed, except with respect to rights and duties that matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun, before the effective date of this section:

(1) Sections 4870, 4871, 4872, 4873, 4875, 4877, 4881, and 4882 of the Revised Statutes (24 U.S.C. 271, 272, 273, 274, 276, 279, 286, and 287).

(2) The Act entitled "An Act to provide for a national cemetery in every State", approved June 29, 1938 (24 U.S.C. 271a).

(3) The Act entitled "An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in line of duty for active field service", approved March 24, 1948, as amended (24 U.S.C. 275).

(4) The proviso to the second paragraph preceding the center heading "MEDICAL DEPARTMENT" in the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June thirtieth, eighteen hundred and seventy-seven, and for other purposes", approved July 24, 1876, as amended (24 U.S.C. 278).

(5) The Act entitled "An Act to provide for the procurement and supply of Government headstones or markers for unmarked graves of members of the Armed Forces dying in the service on or after honorable discharge therefrom, and other persons, and for other purposes", approved July 1, 1948, as amended (24 U.S.C. 279a–279c).

(6) The Act entitled "An Act to establish eligibility for burial in national cemeteries, and for other purposes", approved May 14, 1948, as amended (24 U.S.C. 281).

(7) The Act entitled "An Act to provide for the erection of appropriate markers in national cemeteries to honor the memory of members of the Armed Forces missing in action", approved August 27, 1954, as amended (24 U.S.C. 279d).

(8) The Act entitled "An Act to provide for the utilization of surplus War Department owned military real property as national cemeteries, when feasible", approved August 4, 1947 (24 U.S.C. 281a–281c).

(9) The Act entitled "An Act to preserve historic graveyards in abandoned military posts", approved July 1, 1947 (24 U.S.C. 296).

(10) The Act entitled "An Act to provide for the utilization as a national cemetery of surplus Army Department owned military real property at Fort Logan, Colorado", approved March 10, 1950 (24 U.S.C. 281d–f).

(11) The Act entitled "An Act to provide for the expansion and disposition of certain national cemeteries", approved August 10, 1950 (24 U.S.C. 281g).

(12) The ninth paragraph following the side heading "National Cemeteries" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes", approved August 24, 1912 (24 U.S.C. 282).

(13) The fourth paragraph after the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1926, and for other purposes", approved February 12, 1925 (24 U.S.C. 288).

(14) The second paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1942, for civil functions administered by the War Department, and for other purposes," approved May 23, 1941 (24 U.S.C. 289).

(15) The first proviso to the second paragraph and all of the third paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1927, and for other purposes", approved April 15, 1926 (44 Stat. 287).

(16) The first proviso to the second paragraph and all of the third paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1928, and for other purposes", approved February 23, 1927, (44 Stat. 1138).

(17) The first proviso of the fourth paragraph and all of the fifth paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activties of the War Department for the fiscal year ending June 30, 1929, and for other purposes", approved March 23, 1928 (45 Stat. 354).

(18) The first proviso to the second paragraph and all of the third paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1930, and for other purposes", approved February 28, 1929 (45 Stat. 1375).

(19) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title " of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1931, and for other purposes", approved May 28, 1930 (46 Stat. 458).

(20) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1932, and for other purposes", approved February 23, 1931 (46 Stat. 1302).

(21) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1933, and for other purposes", approved July 14, 1932 (47 Stat. 689).

(22) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1934, and for other purposes", approved March 4, 1933 (47 Stat. 1595).

(23) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1935, and for other purposes", approved April 26, 1934 (48 Stat. 639).

(24) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1936, and for other purposes", approved April 9, 1935 (49 Stat. 145).

(25) The first proviso to the paragrph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1937, and for other purposes", approved May 15, 1936 (49 Stat. 1305).

(26) The first proviso to the paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1938, for civil functions administered by the War Department, and for other purposes", approved July 19, 1937 (50 Stat. 515).

(27) The first proviso to the first paragraph and all of the second paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1939, for civil functions administered by the War Department and for other purposes", approved June 11, 1938 (52 Stat. 668).

(28) The first proviso to the first paragraph and all of the second paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1940, for civil functions administered by the War Department, and for other purposes", approved June 28, 1939 (53 Stat. 857).

(29) The first proviso to the first paragraph and all of the second paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1941, for civil functions administered by the War Department, and for other purposes", approved June 24, 1940 (54 Stat. 505).

(30) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1942, for civil functions administered by the War Department, and for other purposes", approved May 23, 1941 (55 Stat. 191).

(31) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1943, for civil functions administered by the War Department and for other purposes", approved April 28, 1942 (56 Stat. 220).

(32) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1944, for civil functions administered by the War Department, and for other purposes", approved June 2, 1943 (57 Stat. 94).

(33) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1945, for civil functions administered by the War Department, and for other purposes", approved June 26, 1944 (58 Stat. 327–328).

(34) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1946, for civil functions administered by the War Department, and for other purposes", approved March 31, 1945 (59 Stat. 39).

(35) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1947, for civil functions administered by the War Department, and for other purposes", approved May 2, 1946 (60 Stat. 161).

(36) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the War Department for the fiscal year ending June 30, 1948, and for other purposes", approved July 31, 1947 (61 Stat. 687).

(37) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1949, and for other purposes", approved June 25, 1948 (62 Stat. 1019).

(38) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1950, and for other purposes", approved October 13, 1949 (63 Stat. 846).

(39) The first proviso to the paragraph following the center heading "CEMETERIAL EXPENSES" in chapter IX of the Act entitled "An Act making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes", aproved September 6, 1950 (64 Stat. 725).

(40) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1952, and for other purposes", approved October 24, 1951 (65 Stat. 617).

(41) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1953, and for other purposes", approved July 11, 1952 (66 Stat. 579).

(42) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1954, and for other purposes", approved July 27, 1953 (24 U.S.C. 290).

(43) The first proviso to the third paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1926, and for other purposes", approved February 12, 1925 (43 Stat. 926).

(44) The first and second provisos to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act

entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1955, and for other purposes", approved June 30, 1954 (68 Stat. 331).

(45) The first and second provisos to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the Atomic Energy Commission, the Tennessee Valley Authority, certain agencies of the Department of the Interior, and civil functions administered by the Department of the Army, for the fiscal year ending June 30, 1956, and for other purposes", approved July 15, 1955 (69 Stat. 360).

(46) The first and second provisos to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the Tennessee Valley Authority, certain agencies of the Department of the Interior, and civil functions administered by the Department of the Army, for the fiscal year ending June 30, 1957, and for other purposes", approved July 2, 1956 (70 Stat. 474).

(47) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army and certain agencies of the Department of the Interior, for the fiscal year ending June 30, 1958, and for other purposes", approved August 26, 1957 (71 Stat. 416).

(48) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, and the Tennessee Valley Authority, for the fiscal year ending June 30, 1959, and for other purposes", approved September 2, 1958 (72 Stat. 1572).

(49) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, and the Tennessee Valley Authority, for the fiscal year ending June 30, 1960, and for other purposes", approved September 10, 1959 (73 Stat. 492).

(50) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and certain river basin commissions for the fiscal year ending June 30, 1963, and for other purposes", approved October 24, 1962 (76 Stat. 1216).

(51) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and certain river basin commissions for the fiscal year ending June 30, 1964, and for other purposes", approved December 31, 1963 (77 Stat. 844).

(52) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and the Delaware River Basin Commission, for the fiscal year ending June 30, 1965, and for other purposes", approved August 30, 1964 (78 Stat. 682).

(53) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and the Delaware River Basin Commission, and the Interoceanic Canal Commission, for the fiscal year ending June 30, 1966, and for other purposes", approved October 28, 1965 (79 Stat. 1096).

(54) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1967, and for other purposes", approved October 15, 1966 (80 Stat. 1002).

(55) The third proviso to the pargaraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, Interstate Commission on the Potomac River Basin, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1968, and for other purposes", approved November 20, 1967 (81 Stat. 471).

(56) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of Interior, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, Interstate Commission on the Potomac River Basin, the Tennessee Valley Authority, the Water Resources Council, and the Atomic Energy Commission, for the fiscal year ending June 30, 1969, and for other purposes", approved August 12, 1968 (82 Stat. 705).

(57) the third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for public works for water, pollution control, and power development, including the Corps of Engineers—Civil, the Panama Canal, the Federal Water Pollution Control Administration, the Bureau of Reclamation power agencies of the Department of the Interior, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1970, and for other purposes", approved December 11, 1969 (88 Stat. 327).

(58) The first proviso to the paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for public works for water pollution control, and power development, including the Corps of Engineers—Civil, the Panama Canal, the Federal Water Quality Administration, the Bureau of Reclamation, power agencies of the Department of the Interior, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1971, and for other purposes", approved October 7, 1970 (84 Stat. 893).

(59) The first proviso to the paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian Regional Commission, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1972, and for other purposes", approved October 5, 1971 (85 Stat. 368).

(60) The Act entitled "An Act to revise eligibility requirements for burial in national cemeteries, and for other purposes", approved September 14, 1959 (73 Stat. 547).

(61) The Act entitled "An Act to amend the Act of March 24, 1948, which establishes special requirements governing the selection of superintendents of national cemeteries", approved August 30, 1961 (75 Stat. 411).

(b) Nothing in this section shall be deemed to affect in any manner the functions, powers, and duties of—

(1) the Secretary of the Interior with respect to those cemeteries, memorials, or monuments under his jurisdiction on the effective date of this section, or

(2) the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force with respect to those cemeteries, memorials, or monuments under his jurisdiction to which the transfer provisions of section 6(a) of this Act do not apply.

SEC. 8. The first sentence of section 3505 (a) of title 38, United States Code, is amended by inserting immediately after the words "gratuitous benefits" where first appearing therein, the following: "(including the right to burial in a national cemetery)".

SEC. 9. (a) The Secretary of Defense is authorized and directed to cause to be brought to the United States the remains of an American, who was a member of the Armed Forces of the United States, who served in Southeast Asia, who lost his life during the Vietnam era, and whose identity has not been established, for burial in the Memorial Amphitheater of the National Cemetery at Arlington, Virginia.

(b) The implementation of this section shall take place after the United States has concluded its participation in hostilities in Southeast Asia, as determined by the President or the Congress of the United States.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 10. (a) The first section and sections 2, 3, 4, and 8 of this Act shall take effect on the date of enactment of this Act.

(b) Clause (1) of section 5(a) shall take effect on the first day of the second calendar month following the date of enactment of this Act.

(c) Clause (2) of section 5(a) and sections 6 and 7 of this Act shall take effect July 1, 1973, or on such earlier date as the President may prescribe and publish in the Federal Register.

Mr. HARTKE. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc, and that the bill be regarded as original text for purpose of further amendment.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Mr. MANSFIELD. Mr. President, for

the information of the Senate, there is a 10-minute limitation on this and the following bill, with rollcall votes to take 10 minutes each. I therefore suggest that Senators stay close by.

Mr. HARTKE. Mr. President, I rise in support of S. 49, the National Cemeteries Act of 1973. This measure is virtually identical to one which unanimously passed both Houses last year, only to be pocket vetoed by the President.

The legislation which I now urge you to support is the result of lengthy deliberation regarding a national cemetery system and veterans' burial benefits. Since 1966 there have been at least 15 days of hearings on these matters. In the meantime, the supply of regular gravesites has been completely exhausted in national cemeteries on the Middle Atlantic seaboard. The last available space at Culpeper National Cemetery was filled this past November. There is now no available space in any national military cemetery from Long Island to North Carolina.

Mr. President, I ask unanimous consent that an article which appeared in the Washington Post of November 18, 1972, reporting on the final burial at Culpeper, be printed in the RECORD.

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

VETERAN'S BURIAL, LAST IN CULPEPER CEMETERY, A LONELY RITE

(By Hank Burchard)

CULPEPER, VA., Nov. 17.—Nobody claimed Henry Stuart Trumbower's body when he died a week ago in a veterans hospital, but he made history of a small sort when he was buried here today.

Trumbower, who was 66, was buried in the last space available in Culpeper National Cemetery. It was also the last regular gravesite available in any national military cemetery (except for highly restricted Arlington) from Long Island to North Carolina, according to Culpeper Supt. Edward H. Maxwell.

"We used to say the service was hell but at least we'd always have that final foxhole, courtesy of Uncle Sam," said undertaker Charles Spring, like Trumbower a World War II veteran. "I suppose it's still true that there's a free grave for every veteran, but if you die on the East Coast, it may be a long haul."

Spring had brought Trumbower's cloth-covered wood casket from the Veterans Adminstration Center in Martinsburg, W. Va. He had also made some effort to find out what Trumbower's widow who lives in the New York area, wanted done.

"She called the funeral home after the VA notified her, and said she wasn't going to take part in the services and would just let the VA bury him. That happens a lot with these VA cases. It's a sad thing." The funeral was paid for by the automatic $250 GI burial benefit.

That no friends or relatves were present did not surprise Maxwell or The Rev. James D. Riley Jr., a Culpeper Lutheran minister who had volunteered to conduct the service for Trumbower. "I came to Culpeper two years ago," Mr. Riley said. "Since then I've had about 75 similar situations. It always makes me wonder what sadness lies behind a man who must be buried without a single friend or relative in attendance."

Mr. Riley came early to the cemetery office to find out what he could about the deceased. All that was available was on an Army burial authorization form:

Born, 30 Apr 06, Philadelphia, Pa.; highest rank attained, staff sergeant; date of enlistment, 12 Feb 43, date of discharge, 27 Nov 45; unit, 937th Engineer Aviation Combat Battalion; service number, 33-584-339; religious preference, Protestant; discharge, honorable; died, 11 Nov 72. That was Armistice Day.

The VA Center at Martinsburg said it was not authorized to release the cause of Sgt. Trumbower's death, the length of his stay in the hospital, nor any other information about him.

But if the VA was terse, the Army, as always, gave the veteran full military honors. In fact Trumbower got a little something extra. In the past few years when "Taps" was played at a Culpeper funeral, it came from a tape recorder the Army had issued Supt. Maxwell. This time they sent a real bugler.

The burial detail came from the 902d Engineer Company (Float Bridge), Ft. Belvoir, commanded by Lt. James E. Miller. That Trumbower has served with the Engineers was a coincidence.

Trumbower also received, by chance, one of the choice spots in the cemetery. It was beneath a towering hemlock on the northeast edge of the central officers' circle, which had held no enlisted man since the cemetery was opened in 1867 to receive the dead from the battles of Cedar Mountain, Brandy Station and a dozen skirmishes around Culpeper.

"Forasmuch as it hath pleased Almighty God of his great mercy, to take unto himself the soul of our brother: we therefore commit his body to the ground," read Mr. Riley from his red leatherette book of the Lutheran occasional services and additional orders.

It was bitterly cold, and the bugler's notes wavered: one of the seven-man firing party's M-14 rifles jammed, so that Trumbower got only a 19-gun salute; and when the flag was lifted from the casket it trembled in the hands of the shivering soldiers, who wore no overcoats.

They folded the flag and placed it on one of the six empty chairs set out for family and friends, if any. Standard operating procedure is to hand it to the next of kin. Later undertaker Spring put the flag back into the hearse; he had supplied it himself.

There were two floral displays. One, of red carnations, was supplied by standing orders of the Martinsburg post of the Veterans of Foreign Wars. The other, of yellow chrysanthemums and daisies, was sent "by the staff or his friends at the hospital, I guess," Spring said.

Then four cemetery workers, their clothes stained with red clay from preparing Grave B455, lifted the casket from the ceremonial stand and carried it 30 yards to the edge of the circle and lowered it in. A dump truck backed up and filled the hole, and one of the workmen went and got the flowers and put them at the head.

Undertaker Spring searched the ground where the firing party had stood to find some of the discharged blanks to take home to his grandson. He found some, which surprised him: "We used to police up our brass better than this," he said.

The low brick wall surrounding the 6.5-acre cemetery is bordered on three sides by cornfields and pasture, and Floyd Alfred, who has dug most of the graves there, said it was a shame Congress wouldn't buy more land for more veterans.

Alfred knows many of the 3,700 graves at Culpeper by memory. In 10 years of work he has dug and filled many, filled in others that have sunk, and straightened the headstones so that they line up straight in all directions.

Supt. Maxwell said he thinks he may be able to fit a few more graves into the cemetery, but only if the relatives agree to cremation. The canisters of ashes which are about the size of a one-pound tobacco container, can be fitted in shallow holes around the roots of the trees.

Mr. HARTKE. Mr. President, in response to this increasing crisis, the Committee on Veterans' Affairs met in executive session on February 20, 1973, and carefully considered the President's memorandum of disapproval as well as new reports from the Veterans' Administration, the Department of Army, the General Services Administration, and the Office of Management and Budget. The committee also carefully reviewed prior hearings and recommendations made to Congress. The committee adopted one substantive amendment by deleting section 10 which relates to the transfer of land held by the Veterans' Administration. This matter is now to be dealt with separately in the Veterans' Administration Accountability Act of 1973 now pending before the committee. The committee then unanimously ordered S. 49, as amended, favorably reported to the Senate for action. Briefly, the basic provisions of the reported bill are as follows:

First. Establishes within the Veterans' Administration a national cemetery system which would consist of national cemeteries transferred to the VA from the Department of Army and cemeteries presently under the jurisdiction of the VA. Certain Army post cemeteries could be transferred if the President deems it appropriate. Exempted would be Arlington National Cemetery and those cemeteries located at the service academies. The American Battle Monuments Commission would not be transferred by this bill nor would cemeteries under the jurisdiction of the Department of the Interior. In addition to the transfer of the cemeteries, the VA would also assume responsibility for the Government marker and headstone program currently administered by the Department of the Army. The transfer would take place on or before July 1, 1973. Authority to maintain and run the national cemetery system is contained in new chapter 24 to title 38, United States Code.

Second. Directs the VA to conduct a comprehensive study and submit recommendations, on or before July 1, 1973, as to what our national cemetery system and national burial policy should be.

Third. Authorizes a special burial plot allowance of $150—in addition to the present VA allowance for burial and funeral expenses of $250—in any case where a veteran is not buried in a national or other Federal cemetery. Additional benefits of up to $800 are authorized for veterans who die of service-connected disabilities.

Fourth. Provides broader authority to the Administrator of Veterans' Affairs—virtually identical to the current authority of the General Services Administration—to establish standards of conduct and arrests for crimes on VA property.

Fifth. Authorizes the burial of an unknown soldier from the Vietnam conflict at Arlington National Cemetery.

Mr. President, congressional action on this matter is imperative. As the National Director of Legislation for the Disabled American Veterans wrote me earlier this year.

The need for enactment of these legislative measures has been amply demonstrated. The Federal Cemetery System as presently constituted is on a collision course with extinction.

The national commander of the American Legion appeared last week before the Committee on Veterans' Affairs which I am privileged to chair, and testified that:

National cemetery burial is an honor the nation can afford. It is one that is desired by many of today's veterans.

He pointed out that "enactment of this legislation is long past due." This morning I received a telegram from the American Legion which I ask unanimous consent to have printed in the RECORD.

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

MARCH 5, 1973.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans Affairs, Washington, D.C.:

For many years the American Legion has sought the establishment of an adequate national cemetery system—one that would extend to each veteran the honor and privilege of burial in a national cemetery if that is his desire. We believe that this can be effected by transferring to the Administrator of Veterans Affairs jurisdiction of existing national cemeteries with authority for their expansion and orderly development of others. As you know, the American Legion was dismayed at the presidential veto of the National Cemeteries Act of 1972.

S. 49, the National Cemeteries Act of 1973, would provide an increase of $150 in the burial benefits for those veterans not buried in Federal ground and would increase the allowance for those who die from service-connected causes to a maximum of $800. The American Legion believes evidence developed last year in hearings by your committee, and similar hearings by the House Committee on Veterans Affairs, have documented the fact that these increases are justified and urgently needed regardless of any future policy on national cemeteries that may be determined by the Congress.

For this reason we urge early Senate approval of S. 49.

HERALD E. STRINGER,
Director, National Legislative Commission, the American Legion.

Mr. HARTKE. Mr. President, I also ask unanimous consent to have printed in the RECORD a telegram received from the National Association of College Veterans which represents some 300,000 Vietnam-era veterans.

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

MARCH 6, 1973.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans' Affairs, Washington, D.C.

DEAR SENATOR: On behalf of the National Association of Collegiate Veterans, I wish to express our Vietnam Veteran constituency's strong endorsement of S. 49, the National Cemeteries Act of 1973. This bill provides Vietnam Veterans with the same burial benefits for service-connected disabled causes, as federal employees. The bill is, therefore, long overdue.

We Vietnam veterans strongly believe that those who die at home from injuries received while in military service should get at least the same "rights" as do those who are federal employees.

We are,

Respectfully yours,

JIM MAYER,
President, National Association of Collegiate Veterans.

Mr. HARTKE. Mr. President, the committee believes that the veto of the National Cemeteries Act of 1973 was ill advised. I think it appropriate that I discuss the objections expressed in the Memorandum of Disapproval and the committee's response to the arguments.

The primary objection voiced in the memorandum was directed at section 10 of the bill which would have restricted the authority of the executive branch to dispose of Veterans' Administration lands. That objection has been rendered moot in this bill by the committee's action in deleting the provision. The committee wishes to emphasize that the deletion of this provision does not reflect a lessening of its concern over the increased activity by the executive branch in recent years with little or no consultation with the legislative branch to effect the disposition of thousands of acres of Federal land despite objections by the Veterans' Administration itself that such land is essential for continued operation or growth of the Veterans' Administration.

Undoubtedly, there are many instances in which the disposition of land is justified, but the committee remains convinced that Congress has a proper and necessary role in legislative oversight of land disposition which is not now being adequately fulfilled. Because of its belief that immediate action on national cemetery legislation is required and its increased concern over other areas of unchecked administrative action—for example, revisions in the disability rating schedule—the committee unanimously agreed to delete section 10 from this bill and to consider the question of land transfer in the context of more comprehensive legislation dealing with congressional control over VA activities.

The second objection raised in the memoradnum of disapproval was that the provision for a $150 burial plot allowance for veterans not buried in a national cemetery was inconsistent with the study required by the bill and "preempts the results of such a study." The committee has carefully considered this objection and does not find the two provisions inconsistent. First, as the history of previous congressional hearings reveals, Congress is not without a vast body of information upon which to render judgment. The U.S. Veterans' Advisory Commission, for example, formerly recommended a burial plot allowance almost 5 years ago to the day. It is further clear to the committee that the principal recommendation of the study provided for in this bill must be directed to the question of how many, if any, new national cemeteries should be established in the United States. Even the most ambitious proposals before Congress do not envision a national cemetery readily accessible to each and every veteran in the United States. As such, a burial plot allowance for veterans not buried in national cemeteries is clearly in order and not inconsistent with the study required under the bill.

The committee also notes that the administration itself feels no similar restraint to wait for a study to be completed and its fiscal 1974 budget reflects savings of $54 million to be achieved from proposed legislation which would reduce Federal burial allowances to most veterans by one-half.

Mr. President, the evidence is overwhelming. Equitable revision of veterans' burial benefits has been delayed too long. We must act now. As the Commander in Chief of the Veterans of Foreign Wars of the United States testified before the committee yesterday that passage of the bill before us this afternoon will represent—

A giant step in carrying out the VFW goal of at least one National Cemetery in each state so that every veteran who so desires may be buried in a national cemetery reasonably close to his home.

Mr. President, I ask unanimous consent that excerpts from the report accompanying S. 49 be printed in the RECORD.

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

BACKGROUND OF LEGISLATION

Action Prior to the 92nd Congress

Congressional concern with national cemeteries and Federal burial policy for our Nation's veterans is a longstanding one. In 1961 during the 87th Congress, a comprehensive review of the National Cemetery program was made by the Army at the request of the House Committee on Interior and Insular Affairs which then had jurisdiction over the matter. Executive policy was announced in a letter dated 12 February 1962 expressing the Administration's belief that cash burial benefits like the ones now payable by the Veterans' Administration and under the Social Security program are preferable to the furnishing of interment facilities by the Government. Hearings on the future of the National Cemetery System were subsequently held by the House Committee on Interior and Insular Affairs on the 5th and 6th of March, 1962. In 1966 legislative oversight for national cemeteries was transferred to the Committee on Veterans' Affairs and in that year five days of hearings were devoted to the subject of a National Cemetery System by a special Subcommittee on Cemeteries of the House Veterans' Affairs Committee. In January, 1967, President Johnson announced that the Administrator of Veterans' Affairs had been asked to appoint an advisory commission to make a complete survey of all veterans programs including national cemeteries. The following year on January 30, 1968, the President in a special message to Congress on veterans included the following statement on national cemeteries:

"Last year, I asked the Administrator of Veterans' Affairs—in consultation with veterans' groups—to conduct a comprehensive study of the pension, compensation, and benefits system for veterans, their families, and their survivors.

"I asked him to form an advisory commission which would evaluate these programs to assure that our tax dollars are being used most wisely, and that the Government is fully meeting its responsibilities.

"That Commission, composed of 11 distinguished Americans, has now held hearings in cities all across the country.

"We are looking forward to the recommendations of the Commission.

"Every veteran who wants it—those who risked their lives at Belleau Wood, Iwo Jima, and the DMZ—should have the right to burial in a national cemetery situated reasonably close to his home. I have asked the Administrator of Veterans' Affairs to make certain that the recommendations of the Commission include proposals to assure this right in a meaningful sense."

Subsequently, on March 18, 1968, the U.S. Veterans Advisory Commission made the following comment and recommendations:

"RECOMMENDATION NO. 26 OF U.S. VETERANS' ADVISORY COMMISSION

"The Commission recommends several improvements in cemetery administration and burial allowance.

"Background to Recommendation

"Four cemetery systems are managed by Federal agencies. The national cemetery system operated by the Army is the largest. Overseas cemeteries are operated by the American Battle Monuments Commission. The Veterans' Administration controls a number of cemeteries adjacent to its installations. The Department of the Interior manages, as part of the National Park Service, cemeteries transferred from Army jurisdiction in 1933.

"Because the national system began as Civil War burial grounds, most of the cemeteries are in the East. Their expansion has been sporadic, and since 1950, no new cemeteries have been added. The 85 cemeteries which constitute the national system occupy more than 3,700 acres of land and have potential for 1,200,000 gravesites, 58 percent of which have already been developed. Eighty percent of the developed gravesites are occupied or reserved, with the remaining 20 percent available for burials. Approximately 1 million gravesites can be made available for future use within the current acreage.

"The Battle Monuments Commission controls 23 overseas cemeteries, which are closed to burial except for bodies found on battlefields. The Veterans' Administration has 24 cemeteries, six of which are closed; 131,000 of the total VA gravesites available are filled and 315,000 are open for future burials. The National Park Service controls, as national monuments, 13 cemeteries, which encompass 175 acres. Six of these cemeteries are still open, but availability for future burials is limited.

"Eligibility for burials in federally operated cemeteries varies with the operating agencies. Eligibility for burial in the national cemeteries and the Park Service cemeteries embraces active duty personnel, as well as honorably discharged veterans of U.S. service or citizens who served honorably in allied armed forces, including their spouses and minor children. Eligibility for burial in the battle monuments cemeteries is closed except for cases previously mentioned. The Veterans' Administration usually restricts eligibility to veterans who die in VA facilities or in the vicinity thereof and whose bodies are unclaimed. Veterans' widows and children may be included under certain circumstances.

"Although eligibility for burial in federally operated cemeteries legally extends to approximately 26 million living exservicemen, in practice, eligibility is limited by the restricted availability of space and by the geographical distribution of the cemeteries. In fiscal years 1963–65, approximately 15 percent of all veterans who died were buried in Federal cemeteries. However, of those who died within 100 miles of a national cemetery in 1963, approximately 50 percent were buried in a Federal cemetery. Thus, opportunity to exercise the benefit is unequal and will become more so as cemeteries are filled. If the rate of burial in national cemeteries should continue as in fiscal years 1963–65, all developed gravesites will be filled by 1974 and the now undeveloped acreage would be exhausted before the year 2000. But the 1963–65, rate cannot be maintained because of the imminent closing of some cemeteries, while others will continue in operation many years beyond the year 2000.

"The present jurisdictional arrangements involve four agencies of the Government only one of which, the Battle Monuments Commission, has a primary mission dealing with cemetery management. Proposals have been and continue to be made that the four systems be merged under a single management. To the Commission, the Veterans' Administration, which is organized to administer the affairs of veterans, is the most logical choice for administering cemeterial activities related to the interment of veterans.

"The Commission is pleased to note that on October 20, 1967, the House of Representatives transferred oversight of all Federal cemeteries where veterans are, or may be, buried, in this country and abroad, from the Committee on Interior and Insular Affairs to the Veterans' Affairs Committee, with the exception of those few national cemeteries administered by the Secretary of the Interior as part of the national park system. The Commission believes that the oversight of veterans' cemeteries by the same congressional body which deals with all other veterans' legislative matters is distinctly a forward step.

"The Commission fully endorses the President's message of January 30, 1968, and believes that the recommendations contained herein fulfill the President's request for positive proposals to assure that veterans have an opportunity to be buried in a national cemetery near their home. The Commission also realizes that the question of entitlement for a cemetery plot cannot be isolated completely from the question of the current burial allowance. The Commission firmly believes that the existence of veterans' burial allowances should not be compromised by the existence of any other burial or death benefit, public or private.

"While recognizing the progress that has been made, the Commission makes the following recommendations:

"(1) That the entire Federal cemetery function, with exception of the Department of Interior cemeteries, be reassigned to the Veterans' Administration;

"(2) That, without delay, the Administrator of Veterans' Affairs conduct a study on methods of providing burial grounds for all veterans convenient to their homes;

"(3) That the Administrator establish uniform criteria for eligibility for burial in the Federal cemetery system;

"(4) That Arlington National Cemetery be reopened to all eligible veterans until it is completely filled;

"(5) That the burial allowance for veterans be increased to $400, $100 of which shall be reserved for payment toward a gravesite for those not buried in national cemeteries; and

"(6) That the burial allowance not be denied to any veteran because of the existence of any other burial or death benefit, public or private."

Following submission of the Recommendations of the U.S. Veterans Advisory Commission, the House Committee on Veterans' Affairs conducted three days of hearings on March 26, 27, and April 1, 1968. Testimony was received from Members of Congress on 85 pending bills on the subject, the Department of Army, the Veterans' Administration, the American Battle Monuments Commission, representatives of operators of private cemeteries and officials of veterans' organizations. During the 91st Congress two days of additional hearings concerning national cemeteries were held by the House Committee on Veterans' Affairs on November 17 and 18, 1970.

Action During the 92d Congress

The Senate Committee on Veterans' Affairs conducted two days of hearings on the national cemetery legislation on February 22 and 23, 1972. These hearings covered S. 2052 which would establish a National Cemetery System and thirteen other bills referrd to it and pending before the Committee on Veterans' Affairs which would establish new national cemeteries in various States. Testimony was presented by Administration spokesmen for the Department of Defense and the Veterans' Administration. Additional testimony was received by the Committee from all major veterans' organizations and spokesmen for consumer groups and the private cemetery industry.

On March 28 and 29, 1972, the House Committee on Veterans' Affairs conducted hearings on national cemetery legislation and on May 17, 1972 reported H.R. 12674 (H. Rept. 92–1069). On June 5th, H.R. 12674 unanimously passed the House and was referred to the Senate Commitee on Veterans' Affairs. The Senate Committee met in Executive Session on September 26, 1972 to consider a Committee substitute to H.R. 12674 which combined certain portions of the House-passed bill and S. 2052 as originally introduced together with additional amendments. The Committee unanimously approved and ordered favorably reported H.R. 12674 with an amendment in the nature of a substitute. On October 2, 1972, the bill was reported to the Senate (S. Rept. 92–1256) and on October 9, 1972 the bill passed the Senate unanimously. On October 11, 1972 the House of Representatives concurred with the Senate amendments and the bill was presented to the President for signature.

PRESIDENTIAL VETO

On October 27, 1972, President Nixon announced his pocket veto of H.R. 12674 issuing the following Memorandum of Disapproval:

"NATIONAL CEMETERIES ACT OF 1972 (H.R. 12674)

"This bill would block the orderly system of surplus land disposal established by general law and Executive order, by requiring an unusual congressional approval precdure before any VA land holdings larger than 100 acres could be sold.

"These property transfer restrictions would undermine the executive branch's Governmentwide system of property management and surplus property disposal which is designed to assure the best and fullest use of Federal property. It would impede the Legacy of Parks program and the procedures for disposing of surplus Federal property under the Federal Property and Administrative Services Act and Executive Order 11508.

"Also, the bill deals inconsistently with the serious problem of burial benefits for the Nation's veterans and war dead. It commissions a study of this problem at the same time it preempts the results of such a study by authorizing new burial benefits which would annually add 55 million to the Federal budget beginning next year. The Administrator of Veterans' Affairs already is at work on such a study, which will identify the alternatives for improving burial and cemetery benefits. In the interim, it would be unwise to commit additional Federal resources as proposed by this bill."

COMMITTEE RESPONSE TO THE PRESIDENTIAL VETO

There were essentially two substantive objections expressed in the President's Memorandum of Disapproval to the National Cem-

eteries Act of 1972. The primary objection voiced in the memorandum was directed at section 10 of the bill which would have restricted the authority of the Executive Branch to dispose of Veterans' Administration lands. That objection has been rendered moot in this bill by the Committee's action in deleting the provision. The Committee wishes to emphasize that the deletion of this provision does not reflect a lessening of its concern over the increased activity by the Executive Branch in recent years with little or no Consultation with the Legislative Branch to effect the disposition of thousands of acres of Federal land despite objections by the Veterans' Administration itself that such land is essential for continued operation or growth of the Veterans' Administration.

Undoubtedly, there are many instances in which the disposition of land is justified, but the Committee remains convinced that Congress has a proper and necessary role in legislative oversight of land disposition which is not now being adequately fulfilled. Because of its belief that immediate action on national cemetery legislation is required and its increased concern over other areas of unchecked administrative action (e.g., revisions in the disability rating schedule) the Committee unanimously agreed to delete section 10 from this bill and to consider the question of land transfer in the context of more comprehensive legislation dealing with Congressional control over VA activities.

The second objection raised in the Memorandum of Disapproval was that the provision for a $150 burial plot allowance for veterans not buried in a national cemetery was inconsistent with the study required by the bill and "preempts the results of such a study." The Committee has carefully considered this objection and does not find the two provisions inconsistent. First, as the history of previous Congressional hearings reveals. Congress is not without a vast body of information upon which to render judgment. The U.S. Veterans' Advisory Commission, for example, formerly recommended a burial plot allowance almost five years ago to the day. It is further clear to the Committee that the principal recommendation of the study provided for in this bill must be directed to the question of how many, if any, new national cemeteries should be established in the United States. Even the most ambitious proposals before Congress do not envision a national cemetery readily accessible to each and every veteran in the United States. As such, a burial plot allowance for veterans *not* buried in national cemeteries is clearly in order and not inconsistent with the study required under the bill.

The Committee also notes that the Administration itself feels no similar restraint to wait for a study to be completed and its Fiscal 1974 Budget reflects savings of $54 million to be achieved from proposed legislation which would reduce Federal burial allowances to most veterans by one-half.

DISCUSSION

Historical Background and the Need for Legislation

Development of national cemeteries in the United States have not followed any master plan. They experienced their greatest growth immediately following the Civil War when the Army completed the task of concentrating the remains of the war dead. By 1870, there were 62 national cemeteries, many located at the site of Civil War battles. Several cemeteries were added in the 1870's and 1880's and during the 1930's. Only 5 cemeteries have been added to the system since World War II and since 1950 no new national cemeteries have been authorized. The historical development of national cemeteries has resulted in a haphazard distribution which often does not correlate to large population centers in the United States.

Eligibility requirements for burial in national cemeteries developed slowly over the years and became the subject of comprehensive legislation in 1948. As amended in 1959, the law designates the following three categories of persons as the principal groups now eligible for interment:

(1) any member or former member of the Armed Forces of the United States whose last active service terminated honorably by death or otherwise;

(2) any citizen of the United States who served in the Armed Forces of any government allied with the United States during the way and whose last active service terminated honorably by death or otherwise; and

(3) the wife, husband, widow, widower, minor child and in the discretion of the Secretary of the Army, the unmarried adult child of any of the persons mentioned in the first two categories. Eligibility of these persons for interment is contingent upon the eventual burial in the cemetery of the person who holds the basic eligibility.

Under current law, there are over 28 million veterans eligible for interment in national cemeteries. If dependents are included, it is estimated that more than 50 million persons are eligible for burial therein. With approximately 1 million actual and potential grave sites available in all national cemeteries the need for prompt consideration of our national burial policy is evident. The Nation Cemetery Act of 1973 would provide for the transfer of most cemeteries under the jurisdiction of the Department of the Army to the Veterans' Administration. The Committee believes this to be a logical transfer in view of the fact that more than 95 percent of the interments in national cemeteries are of veterans and dependents with active duty servicemen comprising the remainder. The following table indicates the classification of interments in national cemeteries in Fiscal Year 1972:

TABLE 1.—CLASSIFICATION OF INTERMENTS IN NATIONAL CEMETERIES—FISCAL YEAR 1972

	Number interred	Percent of total interred
World War I veterans	6,519	17.9
World War II veterans	12,116	33.2
Korea veterans	1,503	4.1
Peacetime veterans	898	2.5
Spanish American War veterans	51	.1
Vietnam veterans	590	1.6
Retired servicemen	2,844	7.8
Total, veterans	24,521	67.2
Active-duty servicemen	753	2.1
Total, veterans and servicemen	25,274	69.3
Dependents	11,175	30.7
Grand total	36,449	100.0

The transfer of cemeteries which would occur on or before July 1, 1973, would also provide for the Veterans' Administration to assume the Headstone and Marker Program presently being run by the Department of Army. Over 210,000 markers (representing two-thirds of all veterans' deaths) were provided in fiscal year 1972.

Authority for the Veterans' Administration to manage and run this new system is contained in new chapter 24 added to title 38 which is patterned closely after the existing authority given to the Department of Army in chapter 7 of title 24, United States Code.

The national cemeteries presently under the jurisdiction of the Department of Army and available space remaining are shown in the following table:

TABLE 2.—NATIONAL CEMETERIES OPERATED BY THE DEPARTMENT OF THE ARMY AS OF DEC. 31, 1972

Cemetery and location (city and State)	Date established	Acreage: Developed	Acreage: Undeveloped	Gravesites: Developed	Gravesites: Undeveloped	Total interments	Fiscal year: Date closed	Fiscal year: Expected closeout
1. Alexandria: Pineville, La	1867	8.230	0	6,444	0	7,095		1981
2. Alexandria: Alexandria, Va	1862	5.500	0	4,060	0	4,062	1967	
3. Alton: Alton, Ill	1948	.480	0	533	0	481	1961	
4. Annapolis: Annapolis, Md	1862	4.125	0	2,912	0	2,887	1961	
5. Arlington: Arlington, Va	1864	517.830	[1] 0	183,555	[1] 0	159,459		1983
6. Balls Bluff: Leesburg, Va	1865	4.630	0	25	0	54	1865	
7. Baltimore: Baltimore Md	1936	72.227	0	36,404	0	33,315	1971	
8. Barrancas: Pensacola, Fla	1868	20.690	9.220	12,375	4,800	8,548		1987
9. Baton Rouge: Baton Rouge, La	1867	7.698	0	5,068	0	5,159	1960	
10. Beaufort: Beaufort, S.C	1863	28.920	0	17,029	0	10,756		2000+
11. Beverly: Beverly, N.J	1864	64.550	0	39,976	0	36,274	1966	
12. Black Hills: Sturgis, S. Dak	1948	12.000	93.900	5,878	56,340	4,262		2000+
13. Camp Butler: Springfield, Ill	1862	16.450	22.800	8,194	14,093	6,762		2000+
14. Camp Nelson: Nicholasville, Ky	1866	9.750	0	5,371	0	5,293	1967	
15. Cave Hill: Louisville, Ky	1863	4.108	0	5,625	0	5,680	1939	
16. Chattanooga: Chattanooga, Tenn	1867	77.000	43.800	24,344	26,000	21,770		2000+
17. City Point: Hopewell, Va	1866	6.660	0	5,516	0	6,509	1972	
18. Cold Harbor: Mechanicsville, Va	1866	1.430	0	948	0	2,055	1970	
19. Corinth: Corinth, Miss	1866	20.000	0	13,473	0	6,121		2000+
20. Crown Hill: Indianapolis, Ind	1866	1.370	0	795	0	975	1867	
21. Culpeper, Culpeper, Va	1867	6.470	0	3,664	0	3,705	1973	
22. Cypress Hills: Brooklyn, N.Y	1862	18.197	0	18,687	0	20,372	1954	
23. Danville: Danville, Ky	1862	.310	0	396		393	1955	
24. Danville: Danville, Va	1866	3.500	0	2,177	0	2,179	1971	
25. Fayetteville: Fayetteville, Ark	1867	6.110	0	3,660	0	2,966		1978
26. Finn's Point: Salem, N.J	1875	4.590	0	2,705	0	2,704	1947	
27. Florence: Florence, S.C	1865	5.870	0	4,625	0	4,005		1981
28. Fort Bliss: Fort Bliss, Tex	1939	42.850	18.000	25,263	10,200	10,657		2000+

Footnotes at end of table.

Cemetery and location (city and State)	Date established	Acreage: Developed	Acreage: Undeveloped	Gravesites: Developed	Gravesites: Undeveloped	Total interments	Fiscal year: Date closed	Fiscal year: Expected closeout
29. Fort Gibson: Fort Gibson, Okla	1868	13.510	18.700	8,578	11,220	6,226		2000+
30. Fort Harrison: Richmond, Va	1866	1.550	0	1,048	0	1,334	1967	
31. Fort Leavenworth: Fort Leavenworth, Kans	1862	36.100	0	19,520	0	14,381		1981
32. Fort Logan: Denver, Colo	1950	40.800	96.366	25,205	49,840	14,842		2000+
33. Fort McPherson: Maxwell, Nebr	1873	14.000	6.000	5,648	3,956	3,307		2000+
34. Fort Rosecrans: San Diego, Calif	1934	71,340	0	44,340	0	45,672	1967	
35. Fort Sam Houston: San Antonio, Tex	1937	60.110	0	37,047	0	28,064		1977
36. Fort Scott: Fort Scott, Kans	1862	10.510	0	5,959	0	2,673		2000+
37. Fort Smith: Fort Smith, Ark	1867	14.590	0	8,832	0	4,991		1996
38. Fort Snelling: St. Paul, Minn	1939	136.570	340.000	80,104	194,571	50,957		2000+
39. Glendale: Richmond, Va	1866	2.080	0	1,290	0	1,877	1970	
40. Golden Gate: San Bruno, Calif	1939	161.500	0	101,368	0	98,877	1967	
41. Grafton: Grafton, W. Va	1867	3,201	0	2.130	0	2,094	1961	
42. Hampton: Hampton, Va	1866	26.530	0	21,450	0	21,232	1970	
43. Jefferson Barracks: St. Louis, Mo	1863	105.330	201.650	67,506	118,976	54,036		2000+
44. Jefferson City: Jefferson City, Mo	1867	2.010	0	1,638	0	1,562	1969	
45. Keokuk: Keokuk, Iowa	1862	5.100	16.000	2,523	9,600	2,373		2000+
46. Knoxville: Knoxville, Tenn	1863	9.830	0	7,500	0	7,357		1973
47. Lebanon: Lebanon, Ky	1867	2.380	0	1,996	0	1,681		1976
48. Lexington, Lexington, Ky	1863	.750	0	1,384	0	1,384	1939	
49. Little Rock, Little Rock, Ark	1868	24.950	0	17,895	0	13,542		1985
50. Long Island: Farmingdale, N.Y	1936	364.000	0	249,384	0	998,647		1978
51. Loudon Park: Baltimore, Md	1862	5.600	0	6,486	0	6,994	1971	
52. Marietta: Marietta, Ga	1866	23.256	0	16,526	0	16,249	1971	
53. Memphis: Memphis, Tenn	1867	44.150	0	29,931	0	25,187		1980
54. Mill Springs: Nancy, Ky	1862	3.500	0	2,176	0	1,494		1983
55. Mobile: Mobile, Ala	1865	5.240	0	3,873	0	4,841	1963	
56. Mound City: Mound City, Ill	1864	10.500	0	7,983	0	6,584		1991
57. Nashville: Madison, Tenn	1866	65.000	0	31,112	0	22,619		1993
58. Natchez: Natchez, Miss	1866	10.720	0	4,970	0	4,723		1982
59. National Memorial Cemetery of Pacific: Honolulu, Hawaii	1948	111.540	0	27,037	0	23,097		1980
60. New Albany: New Albany, Ind	1862	6,310	0	5,086	0	5,043	1960	
61. New Bern: New Bern, N.C	1867	7.680	0	5,607	0	4,689		1993
62. Perryville: Perryville, Ky	1931	4.390	0	0	0	0	[2]	
63. Philadelphia: Philadelphia, Pa	1862	13.320	0	10,334	0	11,731	1947	
64. Port Hudson: Zachary, La	1866	8.040	0	6,082	0	5,442		1977
65. Puerto Rico: Bayamon, Puerto Rico	1948	29.300	78.940	11,676	30,179	8,475		2000+
66. Quincy: Quincy, Ill	1899	.450	0	582	0	450		1995
67. Raleigh: Raleigh, N.C	1865	6.950	0	4.999	0	2,763		1998
68. Richmond: Richmond, Va	1866	9.740	0	7,457	0	8,841	1963	
69. Rock Island: Rock Island, Ill	1863	24.700	6.800	15,970	5,316	8,682		1986
70. St. Augustine: St. Augustine, Fla	1881	1.360	0	1,152	0	2,636	1949	
71. Salisbury: Salisbury, N.C	1865	5.970	0	14,302	0	13,675		1983
72. San Antonio: San Antonio, Tex	1867	3.660	0	3,042	0	3,137	1961	
73. San Francisco: Presidio of San Francisco, Calif	1884	28.340	0	22,825	0	24,912	1962	
74. Santa Fe: Santa Fe, N. Mex	1875	14.460	20,130	9,580	12,000	8,201		1996
75. Seven Pines: Sandston, Va	1886	1.900	0	1,126	0	1,684	1965	
76. Sitka: Sitka, Alaska	1924	1.390	0	669	0	498		1993
77. Soldiers' Home: Washington, D.C	1862	15.800	0	13,678	0	13,093		1979
78. Springfield: Springfield, Mo	1867	13.820	0	8,135	0	6,959		1979
79. Staunton: Staunton, Va	1866	1.150	0	844	0	943	1970	
80. Willamette: Portland, Oreg	1950	76.450	125,000	47,623	75,000	33,853		2000+
81. Wilmington: Wilmington, N.C	1867	5.065	0	4,393	0	3,918		1976
82. Winchester: Winchester, Va	1886	4.890	0	5,051	0	5,225	1970	
83. Woodlawn: Elmira, N.Y	1874	7.644	0	6,441	0	6,295	1969	
84. Zachary Taylor: Louisville, Ky	1928	16.430	0	9,418	0	8,939	1959	
Total		2,667.432	1,096.306	1,498,123	622,091	1,253,299		

[1] The remaining portion of Fort Myer South Post is scheduled for reassignment to the cemetery when required for burial purposes.

[2] No burials. Land not suitable.

Veterans' Administration Cemeteries

Existing cemeteries under the jurisdiction of the Veterans' Administration would also be transferred to the new National Cemetery System. Many of these cemeteries were also first established after the Civil War and served the National Homes for Disabled Volunteer Soldiers that cared for veterans disabled by that war. Current burial policy provides the following categories of persons which may be interred in Veterans' Administration cemeteries:

(1) Any veteran who dies:

(a) while receiving hospital, domiciliary, or nursing home care in a VA field station;

(b) in the immediate vicinity of a field station having a cemetery, whose body is unclaimed, whose relatives cannot be located and for whom burial expenses are payable by VA; or

(c) while receiving hospital or nursing home care at VA expenses at a non-VA institution.

(2) Any interred veteran's remarried widow or widower, minor child, or unmarried adult child capable of self-support.

(3) Any person who dies in active military service who was eligible for burial in a national cemetery.

(4) Any veteran or dependent eligible for burial in a national cemetery for whom burial in a VA cemetery at Houston or interment in the columbarium at the VA Center, Los Angeles is requested.

(5) Such other persons or classes of persons as may be designated by the Administrator.

Veterans' Administration cemeteries to be transferred to the National Cemetery System are shown in the following table:

TABLE 3.—VETERANS' ADMINISTRATION CEMETERIES AS OF JUNE 30, 1971

Station	Original cemetery date	Date of operation	Acreage: Developed	Acreage: Undeveloped	Graves: Developed	Graves: Undeveloped	Developed graves: Used	Developed graves: Available	Graves used—fiscal year: 1971	1970	1969	Burials—fiscal year: 1971	1970	1969	Estimated closing date
VAC, Bath, N.Y	1879	1929	19.00	0	8,109	0	7,599	510	107	103	119	107	103	121	1976
VAC, Biloxi, Miss	1934	1934	25.00	0	11,336	0	1,296	10,040	50	47	45	50	50	45	2000
VAH, Danville, Ill	1898	1930	30.00	0	6,552	0	5,615	937	58	57	42	58	57	42	2000
VAC, Dayton, Ohio	1867	1930	55.00	0	22,507	0	22,016	671	185	210	226	186	211	226	1973
VAH, Ft. Lyon, Colo	1914	1922	8.00	0	956	0	730	226	11	6	18	11	6	18	1985
VAH, Houston, Tex	1965	1965	45.00	374.0	20,250	187,000	3,198	17,052	704	710	592	725	722	601	2000
VAECH, Los Angeles, Calif	1889	1930	111.00	3.5	60,960	3,200	54,040	6,920	1,398	1,338	1,432	1,670	1,406	1,519	1973
VAH, Marion, Ind	1890	1930	14.00	0	4,613	0	4,084	529	31	30	28	31	30	28	1980
VAC, Mountain Home, Tenn	1903	1930	30.00	0	10,000	0	4,856	5,144	94	112	113	95	112	113	2000
VAC, Prescott, Ariz	1888	1921	6.00	0	2,556	0	2,401	155	127	121	115	135	125	116	1972
VAH, Roseburg, Oreg	1894	1932	3.00	0	2,130	0	1,422	708	44	49	43	46	49	43	1983
VAC, Leavenworth, Kans	1886	1930	30.00	0	14,550	0	12,435	2,115	57	90	92	61	95	95	1980
VAD, White City, Oreg	1951	1951	8.00	0	1,200	0	505	695	33	33	21	33	33	21	2000
VAC, Wood, Wis	1871	1930	27.00	0	22,800	0	15,663	7,137	260	281	294	265	286	297	1995

Station	Original cemetery data	Date of operation	Acreage: Developed	Acreage: Undeveloped	Graves: Developed	Graves: Undeveloped	Developed graves: Used	Developed graves: Available	Graves used—fiscal year: 1971	1970	1969	Burials—fiscal year: 1971	1970	1969	Estimated closing date
VAC, Bay Pines, Fla	1933	1933	9.00	0	4,199	0	4,199	0	0	0	0	1	4	5	1964
Fort Bavard, N. Mex	1866	1922	16.00	0	2,600	0	1,560	1,040	10	1	6	11	2	7	1965
VAH, Fort Meade, S. Dak	1878	1944	2.00	0	133	0	188	0	0	0	0	0	0	0	1948
VAC, Hampton, Va	1898	1930	.03	0	22	0	22	0	0	0	0	0	0	0	1912
VAC, Hot Springs, S. Dak	1903	1930	12.00	0	1,482	0	1,481	1	0	0	0	0	0	0	1964
VAH, Kerrville, Tex	1923	1943	2.00	0	460	0	460	0	0	0	0	0	0	0	1957
VAC, Togus, Maine	1867	1930	29.00	0	5,371	0	5,371	0	0	0	0	0	0	0	1961
Total			481.03	377.5	202,841	190,200	149,161	53,680	3,169	3,188	3,186	3,485	3,291	3,297	

Arlington National Cemetery

The reported bill would not include Arlington National Cemetery in the overall transfer. Instead, the Administrator in conjunction with the Secretary of Defense will conduct a comprehensive study of Arlington and submit joint recommendations to Congress on or before July 1, 1973. The study will address itself first to whether it would be advisable to transfer Arlington to the National Cemetery system. Second, the appropriateness of maintaining present eligibility requirements for burial at Arlington, a source of continuing dissatisfaction among many veterans' organizations will be examined. Finally, the joint study will examine the advisability of establishing another national cemetery in or near the District of Columbia. Arlington, established in 1864 and consisting of approximately 518 acres (of which 430 are developed) contains approximately 169,000 developed and 15,000 undeveloped grave sites. Currently there are over 156,000 men buried there. The Department of Army in its report to measures before the Committee in the 92nd Congress objected to the transfer of Arlington stating that it is "clearly distinguishable from all other national cemeteries." They noted that it is in the nature of an historical shrine with the presence of the Tomb of the Unknown Soldier, the graves of General Pershing and other distinguished soldiers as well as the graves of two Presidents. Because it is a military shrine, specially trained active duty military personnel act as honor guards for interment services and numerous ceremonial activities that take place on a continuing basis.

The Army further noted that ceremonial functions, many of which involve the heads of foreign countries and other high level dignitaries are the responsibility of the Commanding General of the United States Army Military District of Washington who has available to him the expertise and resources of the Army. They argued that to transfer the cemetery to the Veterans' Administration and then by agreement continue operations under the Commanding General of the United States Army Military District of Washington, would divide responsibility. It also has been noted that Arlington National Cemetery handles about 3 to 4 million visitors annually. Finally, it should be observed that the Army has continuing responsibility for the implementation of the Arlington National Cemetery Master Plan which contemplates an expansion of the cemetery and is patterned upon successful inter-service coordination and completion of the phasing out of the military facilities now at the Fort Meyer south post. Total cost of the Master Cemetery Plan is projected at $48 million with approximately $7.4 million being budgeted for Fiscal Year 1973. Given the foregoing factors, the Committee continues to believe that additional study is needed prior to any proposed transfer.

Current eligibility for burial at Arlington has also caused considerable controversy. Because of the pressure for interments and the limited space available, entitlement to interment in Arlington National Cemetery has been limited to the following classes:

(1) persons dying on active duty in the Armed Forces;

(2) retired members of the Army, Navy, Air Force, Marine Corps or Coast Guard who have performed active federal services, are carried on the official service retired list, and are eligible to receive compensation stemming from services in the Armed Forces;

(3) recipients of the Medal of Honor;

(4) persons otherwise eligible by reason of honorable military service who have also held elective office in the U.S. Government or served on the Supreme Court or in the Cabinet or in any office compensated at Level II under the Executive Salary Act (C5 U.S.C. 5313 and 22 U.S.C. 866); or

(5) the spouses minor children and dependent adult children of the persons listed in (1) through (4) above and of persons already buried in Arlington.

The following table shows classification of interments in Arlington National Cemetery for Fiscal Year 1972:

TABLE 4.—CLASSIFICATION OF INTERMENTS IN ARLINGTON NATIONAL CEMETERY, FISCAL YEAR 1972

	Number interred	Percent of total interred
World War I veterans	81	2.9
World War II veterans	62	2.3
Korea veterans	22	.8
Peacetime veterans	6	.2
Spanish American War veterans	3	.1
Vietnam veterans	0	0
Retired servicemen	1,082	39.2
Total, veterans	1,256	45.5
Active-duty servicemen	249	9.0
Total, veterans and servicemen	1,505	54.5
Dependents	1,259	45.5
Grand total	2,764	100.0

The Department of Army has estimated the current eligibility policy will allow burials up to the year 2000. A non-restricted burial policy would result in a large influx of World War I veterans and the rapid exhaustion of all available plot spaces. Accordingly, the Committee believes that additional study is warranted prior to taking any final Congressional action.

Post Cemeteries

The reported bill would not call for the automatic transfer of some 27 post cemeteries to the new National Cemetery System as shown in the following table:

TABLE 5.—POST CEMETERY SYSTEM AS OF DEC. 31, 1972

Name of cemetery and nearest city	Total acreage	Total acreage developed	Total internments	Total gravesites (potential)	Total gravesites used	Total number of interments fiscal year 1972	Estimated closeout date
Aberdeen Proving Ground, Aberdeen, Md	0.636	0.636	289	278	277	0	Inactive.
Benicia Arsenal, Benicia, Calif	1.000	1.000	221	404	221	0	Do.
Carlisle Barracks, Carlisle, Pa	.400	.400	227	228	227	0	Do.
Edgewood Arsenal, Edgewood, Md	.150	.150	131	134	128	0	Do.
Fort Benning, Columbus, Ga	8.260	8.260	3,374	6,774	3,268	96	1984.
Fort Bragg, Fayetteville, N.C	3.000	3.000	838	830	819	31	Inactive.
Fort Custer, Battle Creek, Mich	12.240	8.200	155	6,850	152	9	Beyond 2000.
Fort Devens, Ayer, Mass	2.000	2.000	953	1,083	952	19	Inactive.
Fort Douglas, Salt Lake City, Utah	3.420	3.420	912	1,160	910	20	1989.
Fort Huachuca, Garden Cannon, Ariz	7.438	7.438	716	2,140	712	36	Beyond 2000.
Fort Knox, Tip Top, Ky	1.500	1.500	703	770	699	47	1974.
Fort Lawton, Seattle, Wash	2.900	2.900	802	874	770	7	Inactive.
Fort Leavenworth USDB, Leavenworth, Kans	.524	.524	240	301	240	0	Beyond 2000.
Fort Lewis, Nisqually, Wash	3.000	3.000	878	918	859	3	Inactive.
Fort McClellan, Calhoun, Ala	1.000	1.000	129	255	127	9	Beyond 2000.
Fort George G. Meade, Patuxent, Md	.860	.860	307	291	291	1	Inactive.
Fort Missoula, Missoula, Mont	.880	.880	183	479	183	0	Beyond 2000.
Fort Reno, El Reno, Okla	1.000	1.000	256	256	256	0	Inactive.
Fort Richardson, Anchorage, Alaska	19.430	8.030	1,148	8,340	1,082	42	Beyond 2000.
Fort Riley, Manhattan, Kans	7.500	7.500	2,352	3,435	2,347	51	1990.
Fort Sheridan, Highland Park, Ill	15.400	13,650	1,093	4,277	1,074	39	Beyond 2000.
Fort Sill, Comanche, Okla	4.700	4.700	2,510	3,521	2,492	87	1989.
Fort Stevens, Hammond, Oreg	.840	.840	116	447	116	0	Beyond 2000.
Fort Leonard Wood, Fort Wood, Mo	2.000	2.000	374	459	365	24	1976.

Name of cemetery and nearest city	Total acreage	Total acreage developed	Total internments	Total gravesites (potential)	Total gravesites used	Total number of interments fiscal year 1972	Estimated closeout date
Fort Worden, Port Townsend, Wash	3.000	3.000	332	371	326	2	1985.
Presidio of Monterey, Monterey, Calif	.750	.750	395	388	385	1	Inactive.
Schofield Barracks, Honolulu, Hawaii	6.300	6.300	1,546	2,687	1,543	5	1992.
Vancouver Barracks, Vancouver, Wash	5.930	5.930	1,164	2,008	1,146	2	Beyond 2000.
Total	116.058	98.868	22,347	49,958	21,967	531	

Included in this list are 11 active cemeteries located on active posts. There are also 9 inactive cemeteries located on active posts with contiguous land available. Finally, there are 7 inactive cemeteries located on inactive posts, all of which have contiguous land available. While acknowledging that some of these post cemeteries could be incorporated into an expanded national cemetery system, the Department of Army has indicated there might be a number of problems with respect to post cemeteries located on active military reservations. Accordingly, the Committee does not believe that blanket transfer of post cemeteries is presently warranted, and has agreed instead to make this a matter of Presidential discretion if and when he deems it appropriate to transfer post cemeteries.

American Battle Monuments Commission

The National Cemetery Act of 1973 would not provide for the transfer of the American Battle Monuments Commission (ABMC) and the Cemeteries and Monuments it now administers to the Veterans' Administration. The ABMC was created in 1923 and is responsible for the construction and permanent maintenance of military cemeteries and memorials on foreign soil, controls as to design and provides regulations for the erection of monuments, markers, and memorials in foreign countries by other U.S. citizens and organizations, public and private. The Commission is administered by a Secretary under the guidance of commissioners who are appointed by the President and who serve without pay. The ABMC presently administers 23 memorial cemeteries and 14 separate monuments and memorials in ten countries. These cemeteries are generally closed for future burial and, similar to those cemeteries which remain under the jurisdiction of the Department of Interior, are in the nature of historical shrines. The Veterans' Administration in its report to the Committee last year noted the "operational expertise" of the ABMC (whose current annual budget is only $3.3 million) and the absence of any "compelling reason" to transfer its jurisdiction to the VA. In addition there was a lack of any testimony before the 92nd Congress favoring such a transfer. The continuing function and role of the ABMC and its relationship to the National Cemeteries System is, of course an appropriate subject for further consideration in the comprehensive study to be made pursuant to section 3 of this bill. The following table lists the cemeteries and memorials presently administered by the Commission;

TABLE 6.—ABMC CEMETERIES, MONUMENTS, AND MEMORIALS

	Country	Burials	Memorializations
World War I cemeteries:			
Aisne-Marne	France	2,288	1,060
Brookwood	England	468	563
Flanders Field	Belgium	368	43
Meuse-Argonne	France	14,246	954
Oise-Aisne	do	6,012	241
St. Mihiel	do	4,152	284
Somme	do	1,837	333
Suresnes	do	1,541	974
Total		30,912	4,452
World War II cemeteries:			
Ardennes	Belgium	5,306	462
Brittany	France	4,410	498
Cambridge	England	3,811	5,125
Epinal	France	5,255	424
Florence	Italy	4,402	1,409
Henri-Chapelle	Belgium	7,989	450
Lorraine	France	10,489	444
Luxembourg	Luxembourg	5,076	370
Manila	Republic of the Philippines.	17,206	36,279
Netherlands	Holland	8,301	1,722
Normandy	France	9,386	1,557
North Africa	Tunisia	2,840	3,724
Rhone	France	861	293
Silicy-Rome	Italy	7,862	3,094
Suresnes	France	24	None
Total		93,218	55,851
Mexican War	Mexico	750	None
Memorials, World War II:			
East coast			4,596
West coast			412
Honolulu (includes Korea)			26,280
Total			31,288
Monuments, World War I:			
Audenarde	Belgium		
Bellicourt	France		
Brest	do		
Chantigny	do		
Chateau-Thierry	do		
Chaumont (tablet)	do		
Gibraltar			
Kemmel	Belgium		
Montfaucon	France		
Montsec	do		
Somme-py	do		
Souilly (tablet)	do		
Tours	do		
Grand total		124,880	91,591

Private Cemeteries

The relationship of non-Federal cemeteries and interment facilities to the National Cemetery System and Federal burial benefits presents important questions with respect to future Congressional action. Thus, consumer practices concerning direct appeals to veterans as a group by certain proprietary cemeteries were the subject of a day's hearings before the full Committee in 1972. The Committee heard testimony of a group of law students from George Washington University concerning the growing practice by certain profit-making cemeteries or sales organizations to offer "free graves" to honorably discharged veterans. The law students who were known collectively as "Dead Giveaway" testified that these apparently patriotic appeals made by postcard, newspaper advertisement and telephone solicitation to our nation's veterans were highly misleading. Purporting to offer veterans graves that were "free" or available for a "one time only perpetual care charge," these appeals were invariably used as an opening wedge for a hard sales pitch to a veteran and his wife to purchase on a "pre-need basis" with "easy monthly payments" burial plots ranging up to $1400 in costs. (The Veterans' Administration has informed the Committee that in 1970 the national average cost of a burial plot was $122.) Dead Giveaway testified that an affirmative response to an advertisement or telephone solicitation usually brought a salesman to the veteran's living room where an intense and skillful sales presentation stressed the increasing shortage of space in national cemeteries, the prestige and desirability of the veteran being buried in the local cemetery's veterans' "garden of honor" (which in many instances was only in "planning stages") and the absolute necessity to "act now" or risk having no "final resting place" in the future.

Veterans were led to believe there would be no available space in any national cemetery in the near future.

Dead Giveaway testified that a veteran could frequently obtain a free "certificate" for burial if he persisted. But often this "entitlement" was subject to onerous conditions of regular reaffirmation in order to retain it. And they emphasized that the real purpose of the "free graves" offer was to sell a pre-need package deal to a veteran and his spouse. Testimony cited repeated cases where the veteran was often confused as to whether the offer was being made by or with the endorsement of the U.S. Government. Since many veterans are only vaguely aware of the nature and extent of federal burial benefits available to them, the use of official looking forms from the "veterans' department" of the cemetery often confused them.

The students also testified that while the contract signed by a veteran and his wife usually showed that the veteran was receiving his plot for little or no cost, the ultimate price paid by the couple was generally no less than for a non-veteran and his wife, sometimes greater, and for the most part more expensive than the plots for sale in cemeteries without veterans' programs.

While the vast majority of cemeteries do not have veterans' programs of the type described during the hearing, Dead Giveaway testified that these programs were becoming increasingly popular as a vehicle by proprietary cemeteries for enlarging pre-need sales. Industry associations stressed the high profitability of such program. Also contributing to the growing use of veterans' programs according to the testimony has been the entry of larger corporations which acquire various cemeteries throughout the country and run uniform veterans programs. Evidence also indicated that there were certain sales organizations which contract on a commission basis with local cemeteries to run veterans' programs.

The Committee also received testimony from private cemetery owners and representatives of the National Association of Cemeteries (NAC) and the Pre-arrangement Interment Association of America, Inc. (PIAA) who said that the Dead Giveaway testimony which preceded them presented a misleading picture. While acknowledging that there had been abuses by a "small but highly visible and audible portion of the cemetery industry", they minimized the extent of the problem and argued that adequate legal remedies for such abuses presently existed. The National Association of Cemeteries with over 1400 individual cemeteries as members testified that only 113 or less than 8 percent of its total membership had veterans' sales programs involving "active solicitation" by private cemeteries. The president of PIAA also minimized the extent of the problem and in response to Committee inquiries the as-

sociation commissioned a survey and study of proprietary cemeteries which reported that 31 percent had "veterans' sections" and 21 percent had "veterans programs". Additionally, the association study challenged the particulars of a portion of the cases cited by the testimony of Dead Giveaway and as to the remainder claimed that existing private contractual remedies (recission for fraud, unconscionability, etc.) or state consumer laws provide adequate protection for the abuses cited.

The Executive Director of the Better Business Bureau of Northeast Indiana testified as to efforts by the Fort Wayne Bureau to publicize and thus help lead to a cessation of misrepresentation by local cemetery promoters which included intimations that the cemetery was connected with the Veterans' Administration, misuse of the word "free", and sales tactics which "harassed local residents through a continuous boilerroom solicitation". The director expressed his personal conviction that the abuses cited were not extensive and that the business community could regulate itself effectively.

Undoubtedly the hearings helped immeasurably in disseminating information concerning deceptive "free" grave offers to the nation's veteran population. Following Committee hearings the National Council of Better Business Bureaus also issued a report to all its members stating that: "the 'entitlement' and 'free space' offered by cemetery promoters can be a way of selling pre-need cemetery lots and services rather than a patriotic gesture." They urged caution by veterans noting that "since a veteran is entitled to a certain limited burial cost where he may be eventually buried there is no clear advantage to being assigned a "free" space in any civilian cemetery and further that "the 'free' benefits may be minor in comparison to total costs. * * *". Investigations by state law enforcement agencies have commenced and in a number of cases criminal indictments have resulted.

Also subsequent to the hearings last year, the National Association of Cemeteries adopted a new "Consumer code for veterans programs", violations of which will, according to the Association result in "disciplinary action or expulsion and the forwarding of the transcript and report of code violations to state and federal authorities for appropriate action." This code prohibits misleading advertisements or printed forms which suggests possible connection with the Federal Government and further require a bold type positive disclaimer of any connection with a government agency or veterans' organization. Members are also prohibited from representing that space is not available in Government cemeteries in the area without full disclosure as to the availability of space in the nearest Government cemeteries. In addition, the code directs that no burial space shall be offered which does not provide for deed or assignment of such space at the time of acceptance of the offer unless this fact is clearly disclosed at the onset in any advertisement or offer. Finally, the NAC code provides that:

"Members shall not misuse the word "free" in advertising sales promotions or presentations in connection with veterans' programs. If allowance or discount to veterans is offered, it must be bona fide and the comparative price for the veteran and non-veteran must be shown. Any such allowance or discount must not be made by adjusting upward the price of other items, or the price of the grave space for wives to cover the lower price to veterans. Further, it shall be a violation of this code to fail to disclose any material factor, condition of the offer or to use any other misrepresentation or dishonest or unethical sales practice."

If there were in fact strict adherence to this consumer code by all cemeteries with veterans' programs the problems testified to before the Committee would probably be eliminated.

The Committee also notes that at the annual convention of the PIAA held on August 3, 1972, the following resolution was adopted.

"*Resolved*, The Pre-arrangement Interment Association of America recommends to its members that if Congress provides a dollar sum for veterans to purchase cemetery property from private cemeteries, that said members accept this sum provided by Congress as payment *in full* for said burial space and the cost of opening and closing said burial space." (Italic supplied.)

In view of the $150 burial plot allowance provided for in section 5 of this Act, adherence to the foregoing resolution should significantly reduce the prices presently being charged to veterans. The Committee will watch with interest the subsequent pricing policies adopted by proprietary cemeteries with veterans' programs.

Given the conflicting testimony as to the nature and extent of the problem, the adequacy of existing laws and subsequent action taken by the cemetery industry itself, the Committee believes that additional study by the Veterans' Administration is warranted to determine if federal action is necessary and if so in what form. Section 3 of the committee substitute directs the Administrator to study the marketing and sales practices of non-Federal cemeteries and interment facilities which direct specific appeals towards veterans and their dependents. As part of the comprehensive study to be undertaken by the Administrator of the National Cemetery System and federal burial benefits his specific findings and recommendations for legislative action are to be submitted to Congress no later than July 1, 1973. The study should examine the nature and the scope of the existing veterans' programs to determine the extent of the misrepresentations alleged by testimony before the Committee. The study should also examine prices charged veterans and their wives as compared with non-veterans and ascertain to what extent, if any, allowances or discounts are actually being made to veterans, as veterans.

The Administrator should, to the maximum extent practicable, coordinate his investigation with other government agencies concerned with this problem. Both the Federal Trade Commission and the U.S. Postal Service have expressed varying degrees of concern with deceptive cemetery practices. The Administrator should also examine existing state laws and private contractual remedies to determine how adequate they are (in both theory and practice) in protecting veterans from misrepresentation and abuses testified to before the Committee. Finally, the Committee believes it appropriate for the study to examine the actions taken by the cemetery industry following committee hearings to determine what changes if any have taken place and how effective such self-policing sanctions are.

Veterans' Administration Comprehensive Study

While the National Cemetery Act of 1973 is an important measure in developing a cohesive national burial policy, much obviously remains to be done. Section 3 of this bill directs the Administrator to conduct a comprehensive study of and submit his recommendations to Congress within six months following the convening of the first session of the 93rd Congress. The Committee is aware that a considerable inhouse study has been conducted by the VA in which a great deal of meaningful data has already been compiled. In its report to S. 49, the Veterans' Administration has noted that its study has continued and that a completion is scheduled within a "relatively short time". Thus, there should be no difficulty in meeting the July 1, 1973 reporting date to Congress.

The study will cover among other things the criteria which should govern the development and operation of the National Cemetery System including the concept of regional cemeteries and the relationship of the National Cemetery System to other burial benefits provided by federal and state governments to servicemen and veterans.

As part of the study, the Committee also desires that the Administrator give close consideration to acquiring as part of the National Cemetery System the Congressional Cemetery consisting of approximately 30 acres at 1801 E Street, S.E. in the District of Columbia. The recent burial there last year of J. Edgar Hoover, former Director of the Federal Bureau of Investigation, brought public attention to the degree of neglect and vandalism that has befallen the Congressional Cemetery. The Congressional Cemetery is now owned by Christ's Church, Washington Parish. As a historical property it is listed on the National Register of Historic Places and although it is eligible for assistance under the Grants In Aid Program authorized by the National Historical Preservation Act of 1966 (80 Stat. 915) the funding level of the Grants In Aid Program has been shockingly low. Further information received by the Committee indicates that because of numerous high priority projects and limited grant funds, it appears unlikely that funds can be provided for the rehabilitation of the Congressional Cemetery within the foreseeable future. Accordingly, the Committee believes that acquisition of this cemetery within the National Cemetery System would appear to be quite appropriate.

Other Cemetery Proposals

During the 92nd Congress there were 13 bills referred to the Committee which would have established new national cemeteries in various States. There were also over 34 such bills introduced in the House of Representatives including one which would have established a new national cemetery in each State. Already in this session, six bills have been introduced in the Senate and 31 in the House of Representatives Comparing population patterns in the United States with geographic distribution of national cemeteries, certain of these bills would appear to have a considerable degree of merit. The Committee is convinced, however, that it would be a mistake to act on a piecemeal basis. The creation of new national cemeteries must be done in the context of what our national burial policy will be and how each national cemetery will relate to cohesive national plan. With recommendations forthcoming from the Veterans' Administration on or before July 1, 1973, Congress will be able to act in a timely fashion.

Burial Plot Allowance

This bill would also authorize a new burial plot allowance. Burial allowances which were originally authorized to avoid burial of war veterans in a potters field date back to the War Risk Insurance Act of 1917 which provided for the payment of burial expenses not to exceed $100 for certain individuals whose death occurred before discharge or resignation for service. This provision was amended in 1923 to extend payment of a $100 allowance for veterans who died without sufficient assets to meet the expense of burial or where such expenses were not otherwise provided for. The amount was reduced to $75 under the Economy Act by Executive Order in 1933 and restored by Executive Order in 1934. In 1936 the assets limitations previously contained in the law was removed. Ten years later in 1946 the allowance was increased from a maximum $100 to $150 (Public Law 79–529), and in 1958 it was again increased

to the present maximum of $250 (Public Law 85-674).

The National Cemetery Act of 1973 would authorize the Administrator to pay an additional burial plot allowance not to exceed $150. As the House report to the cemetery bill last year noted this "relatively modest" allowance is not intended as the total answer to the question of national policy concerning cemeteries or federal burial benefits. But, it is a necessary first step to answering it. The Committee will watch with interest what effect the additional allowance has on the demand for burial in national cemeteries.

The new burial plot allowance is subject to a set-off where any part of the plot or interment expenses has been paid or assumed by a state or the employer of a deceased veteran. The Veterans' Administration estimates that in the first full year, 284,800 burial awards will be affected at an additional first year annual cost of $42.7 million. The bill would also authorize additional benefits in those cases in which a veteran dies as a result of a service-connected disability. In such a case, survivors would be entitled to VA benefits in an amount not to exceed that currently paid to a Federal employee under the Federal Employees Compensation Act. Under section 8134(a) of title 5, United States Code, a Federal employee who dies as a result of an injury sustained in the performance of duty receives up to $800 for funeral or burial expenses. The benefits of new section 907 would be in lieu of those authorized in sections 902 and 903 except that transportation expenses to a place of burial authorized in 903(a)(2) where a death occurs in a Veterans' Administration facility would continue to be available. The Committee believes it appropriate and equitable to provide the same treatment for a veteran who dies from a service-connected condition acquired in the service of his country as that provided for Federal employees who die as a result of performance of duty. The Veterans' Administration estimates that for the first full year 33,200 awards will be affected at an additional cost of $15.8 million.

New Rulemaking Authority

Section 4 of the bill would authorize a new section 218 which would establish broader authority to the Administrator of the Veterans' Administration to establish standards of conduct and arrest for crimes at hospitals, domiciliaries, cemeteries, and other VA property. Closely patterned after existing authority granted to the Administrator of General Services in sections 318-318(d) of title 4 United States Code this authority would supersede the more limited authority now vested in the Administrator under section 625 of title 38 and accordingly the latter provision would be repealed. Under that section, the Administrator may designate persons to make arrests for "any crime or offense against the United States committed on a reservation. * * *" The new provision would expand the Administrator's authority to allow him to promulgate rules and regulations. Those whom he authorizes could therefore make arrests for violation of these rules and regulations as well as for violations of federal law. In addition, the Administrator could empower the officers or employees of the Veterans' Administration who have been duly authorized to perform investigative functions to act as special investigators and carry firearms. In order to enforce these rules, the Administrator is given the power to set "reasonable penalties" which may not exceed a $50 fine and/or imprisonment for not more than 30 days.

Section 625 which would be repealed by the broader section 218 does not presently cover cemeteries or VA property other than hospitals and domiciliaries, nor does it authorize arrest for violations of rules and regulations. The arrest power presently extends only to federal crimes committed on hospital or domiciliary reservations. There is, however, ample precedent for authorizing Federal officers to make arrests for violations for both Federal laws and agency regulations committed on Federal property within their jurisdiction. Employees of the National Park Service are authorized to make arrests for violations of laws and regulations relating to national forests and parks. Such misdemeanor arrests may not be made without an arrest warrant unless the violation occurs in the presence of the officer making the arrest. Under the reported bill, arrests may be made without a warrant if the special investigator has reasonable grounds to believe that the offense is a felony under federal law and reasonable grounds to believe that the person to be arrested is guilty of that offense.

Burial of Vietnam Unknown Soldier

Section 9 of the reported bill provides for the burial of the remains of an unidentified American who was a member of the Armed Forces of the United States who served in Southeast Asia and lost his life during the Vietnam era for burial in Arlington National Cemetery Memorial Amphitheatre. This provision follows the text of a separate bill (H.J. Res. 609) introduced by the Honorable Hamilton Fish, Jr. of New York last year. The Committee is pleased to note that in 1920 a similar resolution which resulted in the creation of the Tomb of the Unknown Soldier of World War I was sponsored by the father of Congressman Fish, the late Honorable Hamilton Fish, Sr. Implementation of this section shall take place at such time as hostilities have been concluded in Southeast Asia.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF S. 49, AS AMENDED

Section 1

This section provides the Act may be cited as the National Cemeteries Act of 1973.

Section 2

Subsection (a) adds a new chapter 24 to part II of title 38, United States Code. This chapter creates a National Cemetery System within the jurisdiction of the Veterans' Administration and is in large part patterned after chapter 7 of title 24, United States Code which contains current authority for the Secretary of Army to operate and maintain such a System. A detailed analysis of the new chapter, the provisions of which have been modernized and simplified somewhat, follows:

§ 1000. Establishment of a National Cemetery System: composition of such system; appointment of director

A National Cemetery System would be established within the Veterans' Administration for interment of deceased servicemen and veterans. The new System would be headed by a director who would be responsible to the Administrator for the operation of the National Cemetery System. This System would consist of national cemeteries transferred from the Department of the Army to the Veterans' Administration; cemeteries under the jurisdiction of the Veterans' Administration at the time the bill is enacted; and any other cemetery, memorial, or monument transferred to the Veterans' Administration by this bill or later acquired or developed.

§ 1001. Advisory Committee on Cemeteries and Memorials

This section directs the establishment of an Advisory Committee on Cemeteries and Memorials, whose members would be appointed by the Administrator. The Administrator shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which he is responsible and with respect to selection of cemetery sites, the erection of appropriate memorials and adequacy of Federal burial benefits. The Advisory Committee shall make periodic reports and recommendations to the Administrator and the Congress.

§ 1002. Persons eligible for interment in national cemeteries

This section designates those persons who, subject to regulations the Administrator shall prescribe and further subject to the forfeiture provisions of section 3505 of title 38, shall be eligible for interment in any open national cemetery in the National Cemetery System. Eligibility provisions of this section are identical to those currently in force in section 281 of title 24, United States Code. These include servicemen who die on active duty, veterans, reservists, National Guardsmen, Reserve Officers, Training Corps members United States citizens who served honorably with the armed forces allied with the United States in wars engaged in by this country and certain dependents eligible persons in the foregoing categories.

Subsection (a)(6) of this section also provides the Administrator with the authority to include "such other persons or classes of persons" as he may designate. This additional category is consistent with authority currently based on VA Regulation 6200(C) as revised June 2, 1966. Similar authority apparently resides in the Secretary of Army pursuant to 32 C.F.R. 553.18(b)(1) which authorizes "burial in national cemeteries under such regulations as the Secretary may, with the approval of the Secretary of Defense, prescribe."

§ 1003. Memorial areas

This section authorizes the Administrator to set aside, where available, suitable memorial areas in national cemeteries to have those men missing in action or whose remains have not been identified or received. He is authorized to erect appropriate memorials or markers to honor their memory.

§ 1004. Administration

This section authorizes the Administrator to make all necessary and appropriate rules and regulations to carry out the provisions of chapter 24 including the power to designate cemeteries under his jurisdiction as national cemeteries. In discharging his responsibilities under this chapter the Administrator shall provide all necessary facilities for cemeteries including superintendents' lodges, chapels, crypts, mausoleums and columbaria. Graves in national cemeteries would be required to be marked by appropriate markers with specified information placed thereon. Registers of burials will be kept in each cemetery and also at the main office of the Veterans' Administration. These provisions are similar to authority presently vested in the Secretary of Army under sections 278 and 279 of title 24, United States Code. In fulfilling his responsibilities under this chapter the Administrator is also authorized to contract with responsible persons, firms, and corporations for the care and maintenance of such cemeteries under his jurisdiction.

The Administrator would be authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right title, and interest of the United States to any Government owned or controlled approach road providing the State or political subdivision states in writing prior to such conveyance, its willingness to accept and maintain such road. Upon conveyance the jurisdiction of the United States over such road would cease and would vest in the State or political subdivision. This is similar to authority presently contained in section 289 of title 24. When the Administrator deems it to be desirable he is authorized to cede concurrent jurisdiction to a State in which any cemetery monument or memorial under his jurisdiction is located. This partial relinquishment of legislative jurisdiction shall be initiated by filing a notice with the Governor of the State concerned and shall take effect upon acceptance by the State in such manner as its laws prescribe.

§ 1005. Disposition of inactive cemeteries

The Administrator would be authorized to transfer with the consent of the agency concerned, any inactive cemetery, burial plot, memorial or monument in his control to the Department of Interior or to any other agency of the Government for maintenance as a national monument or park. Funds appropriated to the Secretary for the National Park System shall be available for the management and operation of any cemetery transferred to the Department of Interior. The Administrator is also permitted to transfer any inactive cemetery or burial plot to a State or political subdivision thereof provided the State or subdivision agrees to maintain such cemetery in an appropriate manner. Any transfer would be subject to reversion to the Veterans' Administration should the grantee fail to care for and maintain such property in a manner satisfactory to the Administrator.

Where a cemetery not within the National Cemetery System has been or is to be discontinued, the Administrator could provide for the removal of remains from that cemetery to any cemetery within the National Cemetery System. The Administrator is also authorized to remove any veteran's remains from a place of temporary interment, or from an abandoned grave or cemetery to a national cemetery.

§ 1006. Acquisition of lands

The Administrator would be authorized to acquire additional lands for national cemeteries as needed. This could be accomplished by purchase, gift (including donations from State or political subdivisions), condemnation, transfer from other Federal agencies, or otherwise as is deemed in the best interest of the United States. Such authority is similar to that presently vested in the Secretary of Army pursuant to sections 271 and 271a of title 24, United States Code.

§ 1007. Authority to accept and maintain suitable memorials

The Administrator, subject to such restrictions as he may prescribe, would be authorized to accept gifts, devises, or bequests from legitimate societies and organizations or from reputable individuals for the purpose of beautifying or benefiting national cemeteries. He would also be authorized to make land available for this purpose and to furnish such care and maintenance as he deems necessary.

Subsection (*b*) of section 2 of the bill amends the table of chapters at the beginning of part II of title 38, United States Code to reflect the addition of a new chapter 24 establishing national cemeteries and memorials.

Subsection (*c*) of section 2 of the bill amends section 5316 of title 5, United States Code by making certain technical corrections and including the Director, National Cemetery System, Veterans' Administration as paragraph 133 of level V of the Executive Schedule Pay Rate.

Section 3

Subsection (*a*) directs the Administrator to conduct a comprehensive study of and submit his recommendations to Congress on or before July 1, 1973 concerning (1) the criteria which governs the development and operation of the National Cemetery System including the concept of regional cemeteries; (2) the relationship of the National Cemetery System to other burial benefits provided by Federal and State governments to servicemen and veterans; (3) steps to be taken to conform the existing system to the recommended criteria; (4) private burial and funeral costs in the United States; (5) current headstone and marker programs; and (6) the marketing and sales practices of non-Federal cemeteries and interment facilities for any persons either acting on their behalf or selling or attempting to sell any rights, interest, or service therein which is directed specifically towards the veterans and their dependents.

Subsection (*b*) provides that the Administrator shall in conjunction with the Secretary of Defense conduct a similar study and submit recommendations on or before July 1, 1973, concerning whether Arlington National Cemetery should be included within the National Cemetery System, the appropriateness of maintaining the present eligibility requirements for burial at that cemetery; and finally, the advisability of establishing another national cemetery in the District of Columbia or vicinity.

Section 4

Subsection (*a*) amends subchapter II of chapter 3 of title 38 by adding new section 218 more fully described as follows:

§ 218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations

This section is closely patterned after existing authority granted to the Administrator of General Services in sections 318–318(d) of title 4, United States Code. It would authorize the Administrator with respect to all lands and buildings under his jurisdiction to make all needful rules and regulations to maintain law and order to protect persons and properties on VA lands. Violation of such rules and regulations may result in a fine not to exceed $50 or thirty days imprisonment. The Administrator would be empowered to designate officers and employees of the Veterans' Administration to act as special policemen on VA property. He would also be authorized to utilize the facilities and services of existing Federal law enforcement agencies and State or local law enforcement agencies. The Administrator is authorized to empower officers or employees of the Veterans' Administration to act as special investigators with the power to enforce the rules and regulations made under this section and to make arrests without warrant for any offenses committed upon such property if the investigator has reasonable ground to believe: (1) the offense commits a felony under the laws of the United States; and (2) that the person to be arrested is guilty of that offense.

Subsection (*b*) of section 625 of title 38 dealing with arrests for crimes in hospitals and domiciliary reservations is repealed in light of the new and broader section 218 which applies to all lands and buildings under the jurisdiction of the Veterans' Administration.

Section 5

Subsection (*a*) amends present section 903 and adds new sections 906 and 907 more fully described as follows:

§ 903. Death in Veterans' Administration facility; plot allowance

Subsection (a) of 903 restates existing law authorizing a $250 burial allowance for those veterans whose death occurs within a Veterans' Administration facility. New subsection (b) provides that in addition to the amounts payable for the burial or funeral expenses of an eligible veteran under section 902 or 903, if the veteran is not buried in a national cemetery or other cemetery under the jurisdiction of the United States, the Administrator, at his discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $150 plot or interment allowance to such person as he prescribes. If any part of the plot or interment expense has been paid or assumed by a State or subdivision, or the employer of the deceased veteran, a claim for only the difference between the entire amount of the expenses and the amount paid could be allowed.

§ 906. Headstones and markers

This new section would transfer the authority for the present headstone and marker program to the Administrator. This authority is identical to existing authority presently residing with the Secretary of the Army under section 279a, title 24, United States Code. The language has been modernized and simplified to make it conform with the present language of title 38. The new section directs the Administrator to furnish appropriate headstones or markers at Government expense where requested, for the unmarked grave of (1) any individual buried in the national cemetery or post cemetery; (2) an individual eligible for burial in a national cemetery, but not buried there (except for graves of the United States citizens who served honorably with the armed forces of foreign countries allied with the United States, dependents of certain servicemen and veterans and those other persons or classes of persons designated by the Administrator as eligible for burial in such cemeteries); and (3) soldiers of the Union and Confederate Armies of the Civil War.

Subsection (*b*) of new section 906 would authorize the Administration to furnish when requested an appropriate memorial headstone or marker to commemorate any veteran dying in the service and whose remains have not been recovered or identified or were buried at sea, for placement in a national cemetery area reserved for such purposes or in a private or local cemetery.

§ 907. Death from service-connected disability

This new section provides that in any case in which a veteran dies as the result of a service-connected disability the survivors are entitled to receive payment for burial and funeral expenses incurred in connection with the veterans death in an amount not exceeding that currently authorized under section 8134(a) of title 5 to Federal employees where death occurs as a result of injury sustained in the performance of duty. These benefits would be in lieu of benefits authorized under sections 902 and 903(a)(1) and (b) of title 38. Should death occur in a VA facility, transportation benefits provided in section 903(a)(2) as amended by this Act would continue to be available.

Subsection (*b*) of section 5 of the bill amends the table of sections at the beginning of chapter 23 of title 38 to include a reference to new sections 906 and 907.

Section 6

Subsection (*a*) provides for the transfer from the Secretary of Army to the Administrator of Veterans' Affairs jurisdiction over and responsibility for all national cemeteries with the exception of the cemetery at the United States Soldiers' Home and Arlington National Cemetery. This subsection also provides for the transfer from the Secretaries of Army, Navy, and Air Force to the Administrator of Veterans' Affairs, jurisdiction over and responsibility for any cemetery, memorial, or monument coming within their respective jurisdiction which the President determines would be appropriate. Excepted from this transfer are the cemeteries located at the U.S. Military Academy at West Point, the U.S. Naval Academy at Annapolis, and the U.S. Air Force Academy at Colorado Springs.

Subsection (*b*) directs the transfer of so much of the personnel, property and unexpended balances of appropriations, allocations, and other funds available to the Secretaries of Army, Navy, and Air Force in connection with the functions transferred by this bill, as determined by the Director of the Office of Management and Budget, to the Administrator of Veterans' Affairs.

Subsection (*c*) is a savings provision whereby all offenses committed and all penalties and forfeitures incurred under any law amended or repealed by this measure may

be prosecuted and punished in the same manner as if these amendments or repeals have not been made.

Subsection (*d*) provides that all rules, regulations, orders, permits, and other privileges issued or granted by the Secretaries of the Army, Navy, and Air Force will remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator, by any court of competent jurisdiction, or by operation of law.

Subsection (*e*) is a further savings provision under which (1) no suit, action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Army, Navy, or Air Force, with the respect of functions transferred by this bill, shall abate because of the enactment of this bill; (2) no cause of action by or against any Department or Commission concerning the functions transferred or by or against any officer thereof in his official capacity shall abate because of the enactment of this bill; (3) causes of actions, suits, or other proceedings may be asserted by or against the United States or appropriate officer of the Veterans' Administration in any litigation pending at the time this Act takes effect with the court, on its own motion or the motion of any party, being authorized to enter an order giving such effect; and (4) suits commenced prior to the date of enactment of this bill with respect to any function transferred shall be continued by the Administrator.

Section 7

Subsection (*a*) of this section provides for the repeal of statutes giving the Secretary of Army jurisdiction over and responsibility for national cemeteries. Accordingly, most codified provisions contained in chapter 7 of title 24 are repealed. It should also be noted that beginning with a provision of the Appropriations Act of 1925 for the military and nonmilitary activities of the War Department and codified in 1953 in 24 U.S.C. 290 railroads have not been permitted "upon the right of way which may have been acquired by the United States to a national cemetery, or to encroach upon any roads or walks constructed thereon and maintained by the United States." Subsection (a) also provides for the repeal of each of these provisions consistent with the intent of the bill to simplify and recodify the cemetery legislation in title 38. The Committee wishes to note, however, the power to prohibit railroads from encroaching on the rights of way to national cemeteries must be maintained and it intends that the Administrator accomplish this through exercising the power granted in this Act to promulgate regulations to that effect. Although subsection (a) repeals existing authority all rights and duties matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun before the effective date of the transfer of these cemeteries to the new National Cemetery System are preserved under the language of this subsection.

Subsection (*b*) provides that nothing in the repealed section shall be deemed to affect in any manner the function, powers, and duties of the Secretary of Interior with respect to those cemeteries and memorials or monuments coming within his jurisdiction on the date the new National Cemetery System is created or those of the Secretary of the Army, Navy, or Air Force with respect to those cemeteries or memorials or monuments under their respective jurisdiction to which the transfer provisions of this bill do not apply.

Section 8

Section 3505 of title 38 provides for the forfeiture of gratuitous benefits under laws administered by the Veterans' Administration by any individual convicted of certain crimes. This would amend subsection (a) of section 3505 to make explicit that forfeiture benefits also include the right to burial in a national cemetery.

Section 9

This section would authorize and direct the Secretary of Defense to cause to be brought to the United States the remains of an unidentified American who was a member of the Armed Forces of the United States who served in Southeast Asia and lost his life during the Vietnam era for burial in Arlington National Cemetery Memorial Amphitheater. Implementation of this section shall take place after the United States has concluded its participation in hostilities in Southeast Asia. Such sums as may be necessary to carry out the provisions of this section are authorized to be appropriated.

Section 10

The new burial plot allowance becomes effective on the first day after the second month following enactment. The transfer of cemeteries and the Government marker program to the Veterans' Administration and the repeal of resulting inconsistent statutes shall take place no later than July 1, 1973 or such earlier date as the President may prescribe. All remaining provisions of the bill become effective upon enactment.

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510, 91st Congress), the Committee based on information supplied by the Veterans' Administration understands that the only costs attributable to this bill will result from section 4 establishing a new $150 burial allowance for all veterans and additional allowance for those who die of service-connected causes. According to a recent Veterans' Administration study, approximately 15 percent of veterans dying were buried in national cemeteries. Assuming this proportion is maintained and that the remaining 85 percent are buried in private cemeteries (and only a minimal number are excluded by virtue of State or employer assumption of burial costs) the first year cost is estimated at $56 million increasing gradually to $66.8 million at the end of five years. The following table shows the burial affected by the new $150 allowance and the additional costs for each of the next five fiscal years:

TABLE 7.—ESTIMATE OF COST

BURIAL PLOT ALLOWANCE

	Burial awards affected	Additional annual cost
Fiscal year:		
1974	284,800	$42,720,000
1975	297,500	44,625,000
1976	306,000	45,900,000
1977	323,000	48,450,000
1978	340,000	51,000,000

BURIAL ALLOWANCES FOR SERVICE-CONNECTED DEATHS

Fiscal year:		
1974	33,200	$13,280,000
1975	34,700	13,880,000
1976	36,200	14,480,000
1977	37,800	15,120,000
1978	39,700	15,880,000

While the transfer of the cemetery system will not result in additional cost to the Federal Government, the Committee notes that the Veterans' Administration will assume and the Department of Army will be relieved of certain obligations in connection with the operation of the cemetery system. For example, in Fiscal 1973, the Department of Army has fiscal outlays approximating $21.9 million of which $11.7 million is attributable to the operation and maintenance of national cemeteries: $1.4 million to construction; $7.1 million for headstone procurement; and $1.7 million for administration.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report S. 49 with amendments favorably to the Senate:

YEAS—9

Vance Hartke, Herman E. Talmadge, Jennings Randolph, Harold E. Hughes, Alan Cranston, Clifford P. Hansen, Strom Thurmond, Robert T. Stafford, James A. McClure.

NAYS—0

Mr. HARTKE. Mr. President, this eliminates the most controversial section of the bill. The entire committee has supported the bill and I recommend its passage.

Mr. HANSEN. Mr. President, this is an important bill to all veterans and their dependents. Since the Civil War period, the Government has provided burial space for its veteran population in national cemeteries throughout the United States. We should do no less than continue this practice.

This bill (S. 49) provides that the Veterans' Administration may continue studies regarding this issue and report findings back to Congress. The report will ascertain the feasibility of establishing a national cemetery within the boundaries of each State, or, in some instances, near highly populated areas.

At present, our veteran population is more than 28 million. The current burial space available across this Nation would provide for less than 1 million. Adding the dependents who are entitled by statute to be buried in a national cemetery, the figures for spaces available and potential candidates for national cemetery burial are even more disparate.

This bill also will provide $150 plot allowance to the next of kin of veterans who are not interred in a national cemetery. The studies down through the years have considered this is a necessary item, for not all veterans, of course, or their next of kin, take advantage of the national cemetery system.

Studies have shown that in many instances, the next of kin prefers burial of his or her spouse in the local cemetery rather that be faced with traveling considerable distances to visit the grave. By this bill, we hope to satisfy both categories.

Currently, an individual employed by the Federal Government who expires from an accident which occurred while he was on duty may obtain up to $800 towards burial. This bill would provide the same amount to any individual who expires from a service-connected disability that had its inception while he or she was in service of the Nation.

It is my belief that this is a very substantial and productive piece of legislation. I am hopeful that my colleagues wil join me in full support of this measure.

Mr. CRANSTON. Mr. President, I am privileged to join with Senator HARTKE as a principal cosponsor of S. 49, the National Cemeteries Act of 1973. It is a fine measure which has been described

at length already, and I wish only to elaborate briefly on one provision which I authored.

Specifically, I refer to the provision in section 5(a) of the bill which provides for equity in the payment of burial and funeral expenses payments to the survivors of veterans who die from service-connected conditions.

Under the Federal Employees' Compensation Act (5 U.S.C. 8134(a)), if a Federal employee dies as a result of injuries or illness sustained in the performance of duty, his survivors are entitled to a funeral and burial expenses payment of up to $800. And if he dies while away from his home, they are entitled to transportation and preparation of the remains to the place of burial.

By contrast, a veteran who dies—not in a VA hospital—from a service-connected condition is entitled only to a $250 burial benefit, plus, under an amendment in S. 49, a $150 plot allowance.

I can see no basis for this discrimination against the veteran's survivors with respect to a death resulting from the performance of duty. They should get the same $800 payment, and under my amendment in S. 49, they would.

Mr. STAFFORD. Mr. President, S. 49, the bill to establish a national cemetery system within the Veterans' Administration, is again before the Senate for consideration.

To restate my support simply, this piece of legislation is a necessary step to bring the national cemetery system in line with the realities of 1973. The present existing system cannot fulfill the needs of our veterans.

The committee has worked hard on this bill to make it a good one and I think the majority of the Senate will agree by their votes.

Mr. President, I have long supported the need for this legislation and I shall vote for S. 49.

Mr. HANSEN. Mr. President, I yield back the remainder of my time.

Mr. HARTKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HASKELL). All time on this bill has now been yielded back. If there are no further amendments to be proposed, the question is on the third reading of the bill.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill (S. 49) pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Carolina (Mr. ERVIN), the Senator from Michigan (Mr. HART), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce, that if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

The Senator from Michigan (Mr. GRIFFIN) is detained on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 85, nays 4, as follows:

[No. 33 Leg.]

YEAS—85

Aiken	Fong	Metcalf
Allen	Fulbright	Mondale
Baker	Gravel	Montoya
Bartlett	Gurney	Moss
Beall	Hansen	Muskie
Bentsen	Hartke	Nelson
Bible	Haskell	Nunn
Biden	Hatfield	Pastore
Brock	Hathaway	Pearson
Brooke	Helms	Pell
Buckley	Hollings	Percy
Burdick	Hruska	Proxmire
Byrd, Harry F., Jr.	Huddleston	Randolph
Byrd, Robert C.	Hughes	Ribicoff
Cannon	Humphrey	Roth
Case	Inouye	Schweiker
Chiles	Jackson	Scott, Pa.
Church	Javits	Scott, Va.
Clark	Johnston	Sparkman
Cook	Kennedy	Stafford
Cotton	Long	Stevens
Cranston	Magnuson	Stevenson
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Dominick	McClure	Tower
Eagleton	McGee	Weicker
Eastland	McGovern	Young
	McIntyre	

NAYS—4

Bellmon	Goldwater	Saxbe
Bennett		

NOT VOTING—11

Abourezk	Griffin	Thurmond
Bayh	Hart	Tunney
Ervin	Packwood	Williams
Fannin	Stennis	

So the bill (S. 49) was passed.

(NOTE.—The text of the bill as passed is identical to the text as printed earlier in the RECORD at the point where the Senate proceeded to consider S. 49.)

ORDER FOR ADJOURNMENT TO 12 NOON ON THURSDAY NEXT

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 noon on Thursday next.

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

VETERANS' DRUG AND ALCOHOL TREATMENT AND REHABILITATION ACT OF 1973

The PRESIDING OFFICER (Mr. HASKELL). Under the previous unanimous-consent agreement, the Senate will proceed to the consideration of S. 284, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 284) to amend ch. 17 of title 38, United States Code, to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with amendments: On page 1, line 4, after the word "and", strike out "Rehabilitative" and insert "Rehabilitation"; on page 5, line 1, change the section number from "4" to "5"; on page 6, line 7, after the word "section", strike out "660" and insert "659"; on page 14, line 2, after the word "subchapter", insert "who has successfully undergone such treatment and"; in line 9, after the word "such", strike out "program," and insert "program and as a condition of admission to a treatment program under this subchapter,"; at the beginning of line 11, insert "an eligible"; and, after the amendment just above stated, strike out "a"; on page 15, line 4, after the word "than", where it appears the first time, strike out "75" and insert "60"; on page 16, line 21, after the word "eligible", strike out "veterans, broken down so as to reflect expenditures from medical care appropriations and from the Fund" and insert "veterans"; on page 21, line 16, after the word "subchapter", insert "and section 629 of this title"; in line 20, after the word "provided", strike out "hereunder," and insert "hereunder and under such section 629,"; on page 22, line 4, after the word "title", insert a comma and "pursuant to section 654 of this title,"; and, in the material following line 14, in the line beginning "652.", after the word "and", strike out "rehabilitation" and insert "rehabilitative"; so as to make the bill read:

S. 284

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 Drug and Alcohol Treatment and Rehabilitation Act of 1973".

SEC. 2. (a) Section 601(1) of title 38, United States Code, is amended by inserting "(including alcoholism and drug dependence)" immediately after "disease".

(b) Section 601 of such title is further amended by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively, and by inserting after paragraph (1) of such section a new paragraph (2) as follows:

"(2) The term 'veteran', with respect to furnishing hospital care and medical services under this chapter for a service-connected disability, includes (except as otherwise provided in subchapter VI of this chapter and section 3103 of this title) a person who served in the active military, naval, or air service and who was discharged or released therefrom with an other than dishonorable discharge."

(c) Section 601(6) of such title (as redesignated by subsection (b) of this section) is amended by inserting "and rehabilitative services" immediately after "medical services".

(d) Section 601(7) of such title (as redesignated by subsection (b) of this section) is amended by striking out "and treatment" and inserting in lieu thereof a comma and "treatment, and rehabilitative services".

(e) Paragraph (8) of section 601 of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

"(8) The term 'domiciliary care' includes necessary medical services and rehabilitative services, and, in the case of veterans who are unable to defray the expense of transportation, transportation and incidental expenses."

(f) Section 601 of such title is further amended by adding at the end thereof a new paragraph as follows:

"(9) The term 'rehabilitative services' includes but is not limited to, such professional counseling, educational and vocational guidance, education, training, and job referral and placement services (including therapeutic work for remuneration through arrangements with private industry, and essential transportation associated therewith), and such other intensive skilled services applied, on an inpatient or outpatient basis, over such a protracted period as may be necessary to assist the patient to return, as soon (and as completely rehabilitated) as practicable, to his or her family and community as a productive, self-respecting, and self-sustaining member of society."

SEC. 3. Section 602 of title 38, United States Code, is amended by—

(1) striking out "an active" and inserting in lieu thereof "a"; and

(2) striking out "two years" both times it appears therein and inserting in lieu thereof "three years".

SEC. 4. (a) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding after section 612 a new section as follows:

"§ 612A. Eligibility for readjustment medical counseling

"The Administrator, subject to the provisions of section 3103 of this title and within the limits of Veterans' Administration facilities, shall furnish readjustment medical counseling and appropriate followup care and treatment under this subchapter to any person who served in the active military, naval, or air service during the Vietnam era and was discharged or released therefrom with other than a dishonorable discharge and who requests such counseling in order to assist such person in readjusting to civilian life following his discharge or release from the Armed Forces. The Administrator, in cooperation with the Secretary of Defense, shall take appropriate action, as provided in section 241 of this title, to insure that all veterans eligible for assistance under this section are advised of their eligibility for such assistance and are encouraged to take full advantage thereof."

(b) The table of sections at the beginning of chapter 17 of such title is amended by inserting immediately below

"612 Eligibility for medical treatment."

the following:

"612A. Eligibility for readjustment medical counsel."

SEC. 5. (a) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 629. Treatment and rehabilitation for alcoholism

"(a) The Congress hereby finds and declares that alcoholism and alcohol abuse are the most pervasive untreated disease and disability afflicting the Nation, including the veteran population, and that the onset of such conditions often has occurred during military service.

"(b) In order to meet the situation described in subsection (a) of this section, the Administrator, in carrying out his responsibilities to furnish hospital and domiciliary care (including nursing home care) and medical and rehabilitative services under this chapter, shall carry out specialized medical programs providing inpatient treatment (including treatment of the symptoms of detoxification) and outpatient treatment and rehabilitative services on a nationwide basis to the eligible veterans and persons suffering from the disability of alcoholism or alcohol abuse. In carrying out such specialized medical programs, the Administrator shall utilize the most efficacious available models, stressing the utilization in such programs of recovered alcoholic counselors and halfway houses, encounter-style therapeutic communities and other treatment and rehabilitation modalities, extending beyond the detoxification period and designed to provide for the full recovery of the addict patient and his restoration to society as a productive, self-sufficient citizen. The Administrator shall submit a full report annually on the programs carried out under this section as a part of his annual report submitted under and providing the same type of information specified in section 659 of this title."

(b) The table of sections at the beginning of chapter 17 of such title is amended by inserting at the end thereof the following:

"629. Treatment and rehabilitation of alcoholism.".

SEC. 6. Section 618 of title 38, United States Code, is amended by inserting "(a)" before "The Administrator" where it first appears and adding the following new subsection:

"(b) In providing rehabilitative services under this chapter, the Administrator shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which he is entitled under chapter 31, 34, or 35 of this title."

SEC. 7. (a) Chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VI—SPECIAL MEDICAL TREATMENT AND REHABILITATIVE SERVICES FOR DRUG DEPENDENCE OR DRUG ABUSE DISABILITIES

"§ 651. Definition

"As used in this subchapter and notwithstanding any other provision of this title, the term 'veterans', except as provided in section 654 of this title, means a person who has been discharged or released from a period of active military, naval, or air service, regardless of the nature of such discharge or release, and regardless of section 3103 of this title, and who has a drug dependence or drug abuse disability.

"§ 652. Treatment and rehabilitative services for veterans suffering from drug dependence or drug abuse disabilities

"(a) The Administrator shall furnish to any veteran for a drug dependence or drug abuse disability such special medical treatment and rehabilitative services and such hospital and domiciliary care (hereinafter in this subchapter collectively referred to as treatment and rehabilitative services) as he finds to be reasonably necessary to bring about the veteran's recovery and rehabilitation from such disability.

"(b) Such treatment and rehabilitative services shall (1) include, but not be limited to, medical examination, diagnosis, and classification of disability, all appropriate short-term services for the acute effects of the disability, drug withdrawal treatment, group therapy, individual counseling (including appropriate referrals for legal assistance), educational and vocational guidance, and crises intervention, and (2) be provided in hospital, domiciliary, outpatient, and halfway house and other community-based facilities (including store-front facilities located in areas where large numbers of veterans eligible for treatment and rehabilitative services under this subchapter reside) over which the Administrator has direct and exclusive jurisdiction or in other Government or public or private facilities for which the Administrator contracts in accordance with such regulations as he shall prescribe.

"(c) In providing for treatment and rehabilitative services under this subchapter to any veteran, the Administrator shall offer alternative modalities of treatment to such veteran based upon the individual needs of such veteran.

"(d) In contracting for treatment and rehabilitative services in non-Veterans' Administration facilities pursuant to this subchapter, the Administrator shall, wherever feasible, give priority to community-based, multiple-modality, treatment and rehabilitation programs which employ peer group veterans and stress outreach efforts to identify and counsel veterans eligible for treatment and rehabilitative services under this subchapter.

"(e) The Administrator shall, upon receipt of application for treatment and rehabilitative services under this subchapter by any veteran who has been discharged or released from a period of active military, naval, or air service, with other than an honorable or general discharge—

"(1) advice such veteran of his right to apply to the appropriate military, naval, or air service for a review of the nature of his discharge or release for the purpose of correcting the nature of his discharge and thus removing any ineligibility to the receipt of benefits under this title or any other law.

"(2) advise such veteran of the policy of the Armed Forces with respect to review of the nature of any discharge received in connection with drug use or possession; and

"(3) advise such veteran of all programs under this title and any other law to which he is entitled or would be entitled with a general or honorable discharge.

The administrator shall offer and, if requested, provide to any veteran within the purview of this subsection such assistance as may be necessary to facilitate the process of preparing and filing an application for a review of the nature of such veteran's discharge or release from a period of active military, naval, or air service.

"(f) (1 Any veteran eligible for treatment and rehabilitative services under this subchapter as a result of service in the active military, naval, or air service during the Vietnam era shall be entitled to such treatment and rehabilitative services.

"(2) If such veteran—

"(A) requests, but is not provided promptly, treatment and rehabilitative services in a facility or program over which the Administrator has direct and exclusive jurisdiction, or

"(B) requests treatment and rehabilitative services in a non-Veterans' Administration facility or program which the Administrator, as hereafter provided in this paragraph, has determined provides treatment and rehabilitative services consistent with the provisions of this subchapter, and there is no facility or program described in clause (A) readily accessible to such veteran,

then such veteran shall be entitled to payment on his behalf by the Administrator of the reasonable value of such treatment and rehabilitative services consistent with the provisions of this subchapter (including services in accordance with and under the provisions of section 654 of this title) provided to such veteran in a non-Veterans' Administration facility or program which the Administrator, in accordance with standards established in such regulations as he shall prescribe with the concurrence of the Director of the Special Action Office for Drug Abuse Prevention in the Executive Office of the President, has determined provides such treatment and rehabilitative services consistent with the provisions of this subchapter.

"(3) The Administrator shall make payment to a non-Veterans' Administration facility which has provided treatment or rehabilitative services under paragraph (2) of

this subsection (A) for treatment and rehabilitative services provided, out of any funds appropriated for the medical care of veterans for any fiscal year, and (B) for rehabilitative services provided under and in accordance with the provisions of section 654 of this title, out of any funds over which the Administrator has acquired direction pursuant to section 654(a) of this title.

"(g) (1) The Administrator shall also provide for treatment and rehabilitative services in the case of any veteran eligible therefor under this subchapter who has been charged with, or convicted of, a criminal offense by any court of competent jurisdiction in the United States, who is not confined and who is not required to participate in the treatment and rehabilitation program by any such court. In addition, the Administrator shall, to the maximum extent feasible, furnish drugs and medicines to any veteran who is incarcerated by a unit of general local government if such veteran was receiving treatment and rehabilitative services under this subchapter immediately prior to his incarceration and if such drugs and medicines are ordered by the attending physician under conditions he determines provide adequate safeguards against abuse; and the Administrator shall continue to furnish such drugs and medicines to such veteran until such time as the Administrator determines that responsibility for appropriate treatment will be assumed by a non-Veterans' Administration facility or program.

"(2) The Administrator may also provide for treatment and rehabilitative services to any veteran eligible therefor under this subchapter who is under the jurisdiction of a court of competent jurisdiction as the result of having been charged with, or having been convicted of, a criminal offense and who is required to participate in a treatment and rehabilitation program by such court, but such services may be provided only under such conditions as the Administrator determines will insure that the participation of such veteran in the program in question will not impair the voluntary nature of the treatment and rehabilitative services being provided to other patients in such program.

"§ 653. Outreach and counseling

"(c) The Administrator shall utilize all available resources of the Veterans' Administration including the use of peer group veterans in seeking out and counseling toward treatment and rehabilitation of all veterans, especially Vietnam era veterans, eligible for treatment and rehabilitative services under this subchapter.

"(b) The Administrator shall carry out an affirmative action program, in consultation with the Secretary of Labor and the Chairman of the Civil Service Commission, (1) to urge all Federal agencies, private and public firms, organizations, agencies, and persons to provide appropriate employment opportunities for veterans provided treatment and rehabilitation under this subchapter who have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) in coordination with the Secretary of Labor, to place such veterans in such opportunities.

"§ 654. Special Rehabilitation Program of education and training for certain veterans

"(a) Pursuant to regulations prescribed by the Administrator and without regard to a veteran's eligibility for any other benefits under this title, the Administrator shall, in accordance with the provisions of and limitations in this subchapter and subject to the provisions of section 3103 of this title, provide a special program of rehabilitative services patterned after education and training programs under chapter 31 of this title, to any veteran eligible for treatment and rehabilitative services under this subchapter who has successfully undergone such treatment and who was discharged or released after January 31, 1955, from active military, naval, or air service with a discharge under other than dishonorable conditions, to the extent of such veteran's entitlement to benefits under chapter 31, 34, or 35 of this title, as specified in the second sentence of this subsection. In order to qualify for participation in such program and as a condition of admission to a treatment program under this subchapter, such an eligible veteran shall enter into an agreement with the Administrator which will include the following requirements—

"(1) with respect to such veteran's participation in such program, the Administrator shall be entitled to direct the disposition of such veteran's benefit entitlement under chapter 31, 34, or 35 of this title based upon the total number of months (or partial equivalents thereof) of such veteran's participation in such program;

"(2) such veteran's benefit entitlement under such chapters shall be reduced by the total number of months (or partial equivalents thereof) of his participation in such program;

"(3) from the amount of such veteran's benefit entitlement over which the Administrator has been given direction, the Administrator shall provide for the necessary rehabilitative services for such veteran and shall pay a monthly subsistence allowance in an amount not less than 60 per centum, nor more than the full amount, of the full subsistence allowance provided under chapter 31 of this title for each month of such veteran's participation in such program.

"(b)(1) The total period of participation by any veteran in the special rehabilitation program established by this section shall not exceed the total number of months of such veteran's entitlement for benefits under chapter 31, 34, or 35 of this title or a total of twenty-four months, whichever is the lesser, except that in extraordinary cases and in accordance with such regulations as the Administrator may approve an additional period of participation and payment of such subsistence allowance as he determines necessary when he finds that the veteran is making reasonable progress in his rehabilitation program and the additional assistance is necessary to accomplish the purpose of the program.

"(2) No veteran shall enter the program established under this section later than eight years after the date of enactment of this section or of such veteran's discharge or release, whichever is later.

"§ 655. Audits by Comptroller General

"The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, records, reports, files, and all other things or property of non-Veterans' Administration facilities that are pertinent to payments received pursuant to contracts entered into under this subchapter.

"(b) The Comptroller General shall carry out his responsibilities under this section in such a way as to comply with the provisions, respecting medical confidentiality, set forth in section 658 of this title.

"§ 656. Budget requests

"For the fiscal year ending June 30, 1973, and for each fiscal year thereafter, there shall be included in the budget required to be submitted to Congress pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U..C. 11), a separate line item showing the estimated expenditures by the Veterans' Administration under this subchapter and under section 629 of this title during such fiscal year for the treatment and rehabilitation of eligible veterans.

"§ 657. Treatment of members of the Armed Forces by the Veterans' Administration

"(a) Any members of the active military, naval, or air service who is determined by the Secretary of the military department concerned to have a drug dependence or drug abuse disability, may, pursuant to such terms as may be mutually agreeable to the Secretary concerned and the Administrator, and subject to the provisions of the Act of March 4, 1915, as amended (31 U.S. C. 686), be transferred to any Veterans' Administration facility within the last ninety days of his tour of duty and be provided treatment and rehabilitative services under this subchapter as if he were a veteran.

"(b) The Administrator shall from time to time make a report to the Secretary concerned as to the progress of the treatment of any member transferred to him pursuant to the provisions of this section, and the Administrator shall release such member to the secretary concerned when the Administrator finds that the drug abuse disability of such member is stabilized, or certifies that (1) such member refuses to comply with the terms and conditions of the treatment prescribed, or (2) the treatment which could otherwise be provided will be of no further benefit to such member.

"(c) No member of the active military, naval, or air service shall be transferred to any Veterans' Administration facility pursuant to subsection (a) of this section unless such member requests such transfer in writing for a specified period of time within his tour of duty. No such member thereafter transferred shall be retained for treatment by the Administrator beyond such specified period of time within his tour of duty unless the member in writing requests treatment for a further specified period of time and such request is approved by the Secretary concerned and the Administrator.

"§ 658. Medical confidentiality

"(a) Notwithstanding any other provision of law, all records made or information divulged by a person in connection with the provision of treatment and rehabilitative services under the provisions of this subchapter shall be kept confidential by the Administrator, and such record, information, or the fact of such treatment may be disclosed only for the purposes and under the circumstances expressly authorized in this section.

"(b) If the patient who is the subject of the record, information, or fact of treatment obtained or provided under the provisions of this subchapter—

"(1) has voluntarily requested in writing a waiver of confidentiality (A) to medical personnel for the purpose of diagnosis or treatment, (B) to his attorney, or (C) to government personnel or a named person or organization (i) in connection with the patient (or his family, successors, heirs, or assigns) obtaining benefits to which he may (or they might) be entitled, or (ii) where the director of the facility responsible for treatment, rehabilitation, or placement of the patient determines that such disclosure would be clearly beneficial for the patient;

"(2) is determined, by competent medical authority, to be a clear and present danger to himself or others and the disclosure of such record, information, or fact is determined to be necessary to alleviate such danger; or

"(3) is deceased and the Administrator determines that the disclosure of such record, information, or fact is necessary for any of the survivors of such patient to obtain benefits to which they may be entitled, including the pursuit of legal action,

then such record, information, or fact may be disclosed for the purposes and under the circumstances specified herein. In any case where a veteran-patient has a court-appointed fiduciary based upon a finding of mental incompetence, the request for waiver of confidentiality referred to in paragraph (1) may be made on behalf of the veteran-patient by such fiduciary.

"(c) Any record, information, or fact of treatment obtained or provided under the provisions of this subchapter may also be disclosed if authorized by an appropriate order

of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment and rehabilitative services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record, information, or fact, is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(d) The Administrator shall insure that any record, information, or fact of treatment obtained or provided under the provisions of this subchapter shall not be released or divulged in any manner, for any purpose, or with any effect adverse to the interests of the veteran by the Veterans' Administration or any person, program, or organization carrying out functions under this title in connection with any judicial proceeding (criminal or civil), administrative proceeding, or criminal or other investigation to which such patient is a party unless authorized under subsection (b) or (c) of this section.

"(e) Nothing in this section shall prohibit the Administrator from releasing statistical data compiled without reference to individual names or other identifying characteristics.

"(f) The prohibitions of this section shall continue to apply to any record, information, or fact of treatment obtained or provided under the provisions of this subchapter concerning any person who has been a patient, irrespective of whether or when he ceases to be a patient.

"(g) Except as authorized under this section, any person who discloses any record, information, or fact of treatment obtained or provided under the provisions of this subchapter shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

"§ 659. Reports

"The Administrator shall submit to the Congress six months after the enactment of this section and thereafter on each February 1 a full report on the implementation of this subchapter and section 629 of this title separately with respect to alcoholism and alcohol abuse, on the one hand, and to drug dependency and abuse on the other, and an evaluation of the effectiveness of alternate treatment and rehabilitation programs provided hereunder and under such section 629, including (1) the number of veterans and servicemen provided treatment and/or rehabilitative services, (2) the average duration of such treatment and/or services, (3) the estimated percentage of successful rehabilitation and enduring recovery cases, (4) an analysis of successful and unsuccessful rehabilitation experience, (5) a full accounting of receipts and disbursements based upon disposition of entitlements under chapter 31, 34, or 35 of this title, pursuant to section 654 of this title, (6) a description of outreach, information dissemination, and job development and placement efforts, (7) a full accounting of payments to, and an evaluation of services and programs provided in, non-Veterans' Administration facilities, (8) experience under the medical confidentiality provisions, (9) plans for new program directions, and (10) such recommendations for legislation as the Administrator deems appropriate."

(b) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VI—SPECIAL MEDICAL TREATMENT AND REHABILITATIVE SERVICES FOR DRUG DEPENDENCE OF DRUG ABUSE DISABILITIES

"Sec.
"651. Definition.
"652. Treatment and rehabilitative services for veterans suffering from drug dependence or drug abuse disabilities.
"653. Outreach and counseling.
"654. Special rehabilitation program of education and training for certain veterans.
"655. Audits by Comptroller General.
"656. Budget requests.
"657. Treatment of members of the Armed Forces by the Veterans' Administration.
"658. Medical confidentiality.
"659. Reports.".

The PRESIDING OFFICER. The time for debate on this bill will be limited to 10 minutes, to be divided between and controlled by the Senator from Indiana (Mr. HARTKE) and the Senator from Wyoming (Mr. HANSEN). The time on any amendment, motion, or appeal will be limited to 10 minutes.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that they be regarded as original text for purposes of further amendment.

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

Mr. CRANSTON. Mr. President, the provisions of this bill are basically those in S. 2108 which we passed last September 7 as H.R. 9265. Unfortunately, despite our best efforts, we were unable to reach an agreement with the other body during the closing days of the 92d Congress in order to send a Veteran Drug and Alcohol Treatment and Rehabilitation Act to the President. I feel confident that we will be able to resolve our differences early in this Congress and send a bipartisan bill to the President for his signature.

Much has been said and written about the enormous need for an effective and extensive treatment and rehabilitation program for veteran drug addicts and drug abusers. Passage of this measure today will signal that the Senate is determined to break through the redtape that is preventing addicted veterans from getting help and to insure that they will receive comprehensive care and rehabilitation.

Mr. President, all that I said about the efforts of the committee membership—majority and minority—in working on S. 59, which we have just passed by such an overwhelming vote, is equally true as to S. 284, and I wish again to express my great appreciation for all of their efforts and all of their nonpartisan cooperation again.

Treatment and comprehensive rehabilitation for addicted veterans cannot be a partisan political matter.

In addition to the cosponsorship by all eight other members of our committee, we are joined in cosponsorship of this measure by eight other Senators of both parties: Mr. BAYH, Mr. HUMPHREY, Mr. KENNEDY, Mr. MCGOVERN, Mr. PASTORE, Mr. SAXBE, Mr. SCHWEIKER, and Mr. WILLIAMS.

SUMMARY OF REPORTED BILL

Mr. President, the basic purpose of S. 284 is to provide for a fully funded, comprehensive drug and alcohol treatment and rehabilitation program for addicted veterans regardless of the nature of discharge or finding of service-connection in the usual sense required for eligibility for certain VA medical treatment. In recognition that the return of the veteran addict to a productive and personally fulfilling social role requires far more than merely identification and detoxification, the reported bill places particular stress on providing highly individualized, community-based, multimodality, in-house and contract services including a wide range of vocational and educational counseling and rehabilitative services and job placement assistance for all addict veterans. In addition, the reported bill requires the Administrator to carry out a rehabilitation program of a type similar to the chapter 31 program of vocational rehabilitation for most Vietnam era veterans with addiction disabilities.

A collateral purpose of the reported bill is the provision of readjustment medical counseling at VA facilities for other than dishonorably discharged, recently returned veterans, as well as a broadening of the eligibility for basic VA hospital care and medical services for service-connected disabilities to veterans with undesirable discharges.

The committee bill's basic provisions and differences from H.R. 9265, as passed by the House last year, are summarized as follows:

SUMMARY OF PROVISIONS

First, provides that alcoholism and drug dependence are disabilities for the purpose of treatment under chapter 17 of title 38, United States Code; expands hospital and medical care eligibility for service-connected disabilities to veterans with, undesirable discharges; adds to chapter 17 a comprehensive definition of rehabilitative services—including VA assistance to aid the veteran in the maximum utilization of GI bill benefits during rehabilitation—and makes rehabilitative services a part of the definitions of hospital care, medical services, and domiciliary care—which is also redefined in chapter 17—makes outpatient psychiatric care available to veterans for psychosis developing within 3 years—presently 2 years—of discharge; and establishes eligibility for Vietnam era veterans with other than dishonorable discharges to readjustment medical counseling and appropriate followup care and treatment when requested by the veteran.

Second, establishes a special medical treatment and rehabilitative services program for any veteran with a drug dependence or drug abuse disability. Inhospital and outpatient care and contracts with approved community programs for treatment and rehabilitation, as well as outreach efforts, are included. The reported bill stresses the need to of-

fer veteran addicts alternative treatment modalities based on individual readjustment needs.

Third, establishes a Special Rehabilitation program of counseling, education, and training for post-Korean conflict veterans with discharges rendering them eligible for VA benefits, for which the VA may contract with non-VA programs or provide directly. This program would utilize an eligible veteran's GI bill entitlement to provide for the payment to participating veterans of a subsistence allowance, of at least 75 percent of but no greater than the full amount of the vocational rehabilitation subsistence allowance under chapter 31 of this title—currently $170. Participation in the program of such veterans would be limited to 24 months as would their receipt of a subsistence allowance except in extraordinary circumstances.

Fourth, establishes a basic entitlement to treatment and rehabilitative services for drug disabilities on the part of any Vietnam era veteran—includes participation in the special rehabilitation program if eligible therefor—so that such a veteran who requests VA treatment but is not provided it promptly is entitled to reimbursement—or direct payment to the program—for the reasonable cost of treatment and rehabilitative services provided in approved community programs in accordance with the provisions of the overall program. Payments for treatment and rehabilitation would be payable from current and future VA medical care appropriations; for rehabilitation from GI bill funds over which the Administrator has acquired direction from those veterans eligible to participate in the special rehabilitation program.

Fifth, requires the VA to provide for drug treatment and rehabilitative services on request to eligible veterans who have been charged with or convicted of a criminal offense by Federal, State or local authority and are not incarcerated and are not participating in the program by order of the courts; and to continue medical treatment, whenever feasible and where it will not lead to further drug abuse, for any veteran incarcerated in local jails pending trial or following conviction if such veteran was receiving treatment and rehabilitative services at the time of his confinement—this treatment to continue until the Administrator determines that the responsibility for appropriate treatment will be assumed by a non-Veterans' Administration facility or program. The reported bill also authorizes the Administrator to provide for treatment and rehabilitative services for nonincarcerated veterans eligible under the subchapter who are participating in the VA program under court order, but only when the Administrator makes an individual case-by-case finding that the particular veteran's participation in such VA program will not impair the voluntary nature of the services provided to other patients in the program.

Sixth, requires the Administrator to seek out, and counsel toward treatment and rehabilitation, all addict veterans, especially Vietnam era veterans; and authorizes the Administrator to employ or contract for the services of veteran peers, to carry out an affirmative action program to promote the employment of recovered veteran addicts by the Federal Government and private and public employers and to assist in placing these veterans in such jobs.

Seventh, requires annual GAO audits of all contracts with and payments to non-VA drug treatment facilities and programs.

Eighth, requires a line item in the annual budget for all alcohol and drug abuse treatment and rehabilitation programs.

Ninth, provides for the voluntary transfer to and treatment in VA facilities of any addict serviceman who requests such transfer, within the last ninety days of his tour of duty—under the same circumstances as for veterans—for a specified period of treatment.

Tenth, establishes a strict medical confidentiality requirement based on early VA experience under the recently enacted omnibus drug bill (Public Law 92–255) with respect to release of information and records obtained during treatment and rehabilitation of an addict veteran or serviceman under this new program. Basically, release of any such record or information would be made only to certain named persons and organizations for treatment or obtaining benefits or other purpose clearly beneficial to the veteran, and only when voluntarily requested in writing by the subject veteran; where competent medical authority determines the patient is a clear and present danger to himself or society and disclosure is necessary to alleviate the danger; or after the veteran's death for certain legal proceedings. Otherwise, disclosure is permitted only by court order. The Administrator is charged with insuring that under no circumstances are VA records or information—or that controlled by contractors—made available in any judicial or administrative proceeding or for any investigation to which the patient or former patient is a party, unless for purposes not adverse to the veteran or where authorized under this provision. Computation and release of statistical data not identifying directly or indirectly particular patients are permitted for research and public health purposes. Penalties identical to those in Public Law 92–255 are specified for unauthorized disclosures. Under this confidentiality provision, access would be authorized for veterans organizations' service officers who have been granted specific and separate powers of attorney for access to drug abuse records by addict veterans. This need not mean a separate form; a separate release provision and signature specifically for these purposes could be added to the standard VA power of attorney form.

Eleventh, directs the Administrator to carry out specialized medical programs to provide inpatient and outpatient care on a nationwide basis to treat and rehabilitate alcoholic addicts and alcohol abusers, stressing half-way houses, encounter-style therapeutic communities, and full recovery modalities.

ACTION IN THE 92D CONGRESS

Mr. President, S. 284 is the counterpart in the 93d Congress for S. 2108 in the 92d. In the 92d Congress, the Subcommittee on Health and Hospitals of the Committee on Veterans' Affairs and the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare conducted joint oversight hearings on drug addiction and abuse and on alcoholism and alcohol abuse among military veterans on June 15 and June 23, 1971. The Health and Hospitals Subcommittee conducted additional hearings on S. 2108, H.R. 9265, and related veterans' addiction treatment and rehabilitation bills on July 20 and September 14, 1971. At these hearings, testimony was presented by the Administrator and Deputy Administrator of Veterans' Affairs as well as other VA representatives, veterans' organizations, U.S. Senators, physicians, Vietnam veteran ex-addicts, representatives of non-VA community-based drug treatment and rehabilitation programs, and by other concerned persons.

The Subcommittee on Health and Hospitals by poll unanimously referred S. 2108 with a proposed committee substitute amendment to the full Veterans' Affairs Committee for action. The Committee on Veterans' Affairs, met in executive session on June 23 and unanimously approved and ordered reported S. 2108, with a committee substitute amendment and a title amendment.

Mr. President, the Senate unanimously adopted the provisions of S. 2108, as reported, as H.R. 9265 on September 7, 1972. Negotiations were begun immediately to try to resolve the substantial differences between the two versions. Unfortunately, there was not sufficient time to reach agreement in view of the extensive negotiations to resolve in that same period of time four pending major pieces of veterans' legislation: H.R. 12828, the Vietnam Era Veterans' Readjustment Assistance Act of 1972—now Public Law 92–540; House Joint Resolution 748, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972—now Public Law 92–541; H.R. 10880, the Veterans Health Care Expansion Act of 1972 (see S. Rept. No. 93–54, filed Mar. 2, 1973); and H.R. 12674, the National Cemetery Act of 1972 (see S. Rept. No. 93–55, filed Mar. 2, 1973), which along with H.R. 10880, was pocket vetoed on October 27, 1972.

PRINCIPAL PURPOSES OF SENATE-PASSED BILL

The Senate amendment to H.R. 9265 had eight principal purposes related to addiction treatment as follows, to:

First, direct the VA to carry out a broad-range program for treating and rehabilitating addicted veterans.

Second, require contracting for care in community facilities for Vietnam era addict veterans when VA services are not available.

Third, set up VA machinery to seek out and counsel addicted veterans and help them obtain review and correction

of less than honorable discharges by the military.

Fourth, give the VA authority to treat and rehabilitate some 18,000 addicted veterans who received less than honorable discharges because of drug abuse and other veteran addicts with disqualifying discharges.

Fifth, establish VA programs, in cooperation with other Federal agencies and public and private employers, to assist recovered addicts in finding productive employment.

Sixth, guarantee that medical records of addicted veterans remain confidential.

Seventh, allow treatment of veterans even though it may not be possible to establish that their addiction was acquired while in the service, thus eliminating the difficulty of establishing when an honorably discharged veteran, who escaped detection for his drug usage during service, actually acquired or aggravated his addiction disability.

Eighth, restore medical benefits for service-connected conditions to certain disabled veterans who were given undesirable discharges because of drug use or other reasons.

HOUSE BILL APPROACH

By contrast, the House-passed bill, H.R. 9265, was considerably more circumscribed in its approach, and did not deal with alcoholism at all. The House bill's approach was to authorize the VA to provide treatment for veterans' drug addiction without regard to the nature of the veteran's discharge or a finding of service connection for his addiction disability, but not to specify the nature of treatment or rehabilitation or to provide for an extensive rehabilitation program. It also provided for VA treatment of active duty servicemen under military orders regardless of whether they elected treatment in a VA facility, and specifically authorized VA treatment, custody, and discipline of veterans civilly or criminally committed to the VA by a U.S. district court.

Thus, Mr. President, there were last Congress some very real and major differences in philosophy and legislative approach between the versions of H.R. 9265 as passed by the House and Senate. After considerable negotiation, a tentative accommodation that seemed reasonably agreeable to Members in the Senate was reached, but the House Members were not able in the short time remaining in the 92d Congress to study and investigate all the implications of all the provisions of that version.

It was still open to the Senate at that point to accept the provisions as passed by the House. But certain principles in the Senate approach to the question of addiction treatment and rehabilitation were considered so fundamental and crucial to meaningful legislation that the committee could not, in good conscience, go along with the House approach.

CRUCIAL PROVISIONS OF SENATE APPROACH

Mr. President, those matters deemed so crucial were:

First, a comprehensive rehabilitation program, to follow the period of detoxification, needs to be mandated in the law, and during this period of rehabilitation for veterans with GI bill benefit entitlements the VA should be placed almost in the role of a guardian in order to be in the position to define and exercise control over the education and training to be pursued by the veteran addict during his rehabilitation period and also to be able to exercise control over the disposition of cash to such veteran based on his GI bill entitlement.

Second, just as important as providing for comprehensive rehabilitation—which all experts agree is an indispensable part of any successful drug abuse program—is the notion that addicts undergoing such rehabilitation should not be given an advantage over nonaddict veterans and, therefore, the GI bill entitlements of such veterans in a VA rehabilitation program should be reduced proportionately based upon the duration of their participation in such a VA rehabilitation program.

Third, the law must mandate the VA to provide alternative treatment modalities to each veteran, a matter of the most urgent concern in the case of providing treatment for very young addicts who may have acquired their addiction in an alien environment and whose addiction may have been of short duration. The VA trend is disturbingly toward reliance on methadone maintenance in such cases—approximately 70 percent of those being treated for opiate addiction.

Fourth, treatment and rehabilitation provided for veterans should not depend on the availability of a VA medical facility, and, therefore, the provision of such treatment and rehabilitation on a contractual basis in approved community facilities should be mandated in the law when the VA is unable to provide prompt treatment and rehabilitation—with the alternative modalities—for a veteran addict.

Fifth, the treatment program in VA facilities should be kept on a voluntary basis in order to provide for a successful atmosphere based on the motivations of the parties being treated.

Sixth, to deal in the law with the question of drug addiction and to ignore the pervasive problem of alcoholism addiction is not appropriate, and, therefore, at a minimum it is necessary to provide a firm statutory direction for certain VA initiatives in the treatment and rehabilitation of veteran alcoholics.

Seventh, if legislation is to be enacted granting eligibility for VA treatment and rehabilitation to veteran drug addicts regardless of whether or not they acquired their addiction in service and even if they were court-martialed for the highest of crimes for which they receive a dishonorable discharge—both the House bill and the Senate amendment and the administration proposals in the 92d Congress would have covered such cases—at the same time it is necessary to rectify the present title 38 medical eligibility provisions—under which a veteran who may have received an undesirable discharge for a relatively minor infraction, such as repeated AWOL's, and who never was the subject of a court-martial is not now eligible for VA care for a battle wound received prior to such discharge—so that such a veteran could receive medical treatment for such a service-incurred disability even if he has an undesirable discharge.

RELIANCE ON ENACTMENT OF H.R. 10880

Mr. President, on the Senate floor on October 14, 1972, I summed up the situation confronting us in terms of the alternatives then available as the 92d Congress drew to a close, as follows:

I do not wish to suggest that the Senate would necessarily have insisted that each and every one of these seven points be covered in compromise legislation. But we felt we could not recede on all of them together.

The result is, Mr. President, that the 92d Congress will not legislate specifically on the question of providing treatment and rehabilitation for veteran addicts. As all Senators are aware, the Congress has dealt extensively with the addiction problem—both alcoholism and drug addiction—in three separate pieces of legislation enacted in the last 3 years. Most recently, in the Drug Abuse and Treatment Act of 1972, Public Law 92–255, we provided for the establishment of a Special Action Office on Drug Abuse Prevention in the Executive Office of the President to give general direction to a most extensive and comprehensive treatment program for drug addicts in the Nation. Many veterans are and will be dealt with under this legislation.

Insofar as the VA's treatment of drug addiction is concerned, the present situation is as follows:

First, H.R. 10880, which the Senate sent to the President for signature yesterday, of which I was the author in the Senate, authorized the VA to provide outpatient and ambulatory care, by fee or contract, for the nonservice connected conditions of any veteran, wartime or peacetime, when necessary to obviate the need for the hospitalization of such veteran. Prior to this legislation, it was necessary for the VA, under the existing eligibility provisions of section 612(f) of title 38, to hospitalize a veteran addict prior to being able to provide him with followup outpatient care under the so-called "post-hospital" provision in paragraph (2) of that subsection. With the enactment of H.R. 10880, this period of hospitalization will no longer be necessary and the VA will be able, in my judgment, to make a determination that outpatient care is necessary to obviate the need for hospitalization in the case of any veteran addict and therefore to provide all appropriate outpatient and ambulatory care for the treatment and rehabilitation of such addicts. This will remove a major statutory impediment which has restricted the effectiveness of the VA drug treatment program as it has been functioning over the last 18 months to meet the crisis of drug addiction among returning servicemen.

And as I indicated, this outpatient care can be provided by the VA on a fee or contract basis under the provisions of 612(f) as amended in H.R. 10880.

Second, the immediate need for being able to provide treatment to veteran addicts who received less than honorable or general discharges is not present in any way near the same degree as it was 2 years ago when the compelling need for this legislation first presented itself.

This is true for several reasons: First, since the initiation of the Department of Defense "amnesty" policy for drug abuse cases over a year ago very few addict servicemen have been receiving disqualifying discharges; second, the Defense Department has been undertaking—albeit far too slowly, and not in a comprehensive way—to alter the discharges of veterans given disqualifying discharges based on their drug addiction prior to institution of the amnesty policy, and third, under Public Law 92–255 substan-

tial resources are being devoted throughout the country to drug treatment and rehabilitation, under the general direction of the Special Action Office, and these programs are now available to serve veteran addicts who would not be eligible—under present statutory requirements governing VA medical care—for treatment in VA drug programs because of the disqualifying nature of their discharges.

Third, the strong concerns which have been expressed by the veterans' organizations about the inability of their veterans' service officers to represent veterans who have received drug treatment should, I am advised, be resolved by the issuance of regulations next week by the Special Action Office pursuant to Public Law 92-255, which will lift the present interpretation that under the medical confidentiality provisions of that law veterans could not authorize the release of their drug treatment files to veterans' service officers to represent them in securing veterans' benefits. I do not mean to suggest that the provisions in section 659 of the Senate amendment to H.R. 9265 governing medical confidentiality, which would have specifically authorized such written releases to veterans' service officers, would not be a preferable approach, but merely to suggest for the interim, at least, that these new SAODAP regulations should provide an amelioration of the problem.

In conclusion, I wish to point out that the House, by not being able to concur in the approach of the Senate bill under the very limited time available to study this bill, is not rejecting the Senate approach. Indeed, I have been advised that the House committee will engage with us at the start of the 93d Congress in a very careful investigation of the full veterans' addiction treatment question and particularly the approaches taken in the Senate amendment, which I intend to introduce as a new bill as soon as the 93d Congress convenes.

SITUATION REMAINS SERIOUS TODAY

Mr. President, the situation today with respect to treatment of veteran drug addicts remains very serious since H.R. 10880 was pocket vetoed by the President on October 27, 1972, and did not become law. We have just passed S. 59, the counterpart for H.R. 10880/S. 2354 in the 93d Congress, as reported to the Senate—Senate Report No. 93-54.

S. 284 as introduced embodied the previously negotiated tentative compromise. In order to move ahead expeditiously in the 93d Congress as had been promised, the Subcommittee on Health and Hospitals requested prior witnesses in the 92d Congress to update their views on the need for action on S. 284. The general consensus of the testimony was to proceed immediately to report S. 284 to the Senate.

We have done that, and I believe the Senate should be prepared to act favorably on the bill as reported.

Mr. President, the Committee report on S. 284—report No. 93-56—contains an extensive discussion of the provisions in the bill as well as a section-by-section analysis. Mr. President, I ask unanimous consent that appropriate excerpts from the report be included in the RECORD at this point in order to provide a full explanation and analysis of the provisions of the bill as reported from committee.

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

S. 284

BACKGROUND

Neither drug addiction nor alcoholism are new problems to the Veterans Administration. For years the VA has treated the medical consequences of both drug abuse and alcohol abuse in its hospitals. Furthermore, the VA has long recognized alcoholism as a treatable condition and has established alcoholism treatment units at 53 VA medical facilities which have met with considerable success.

VA DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS

By 1968 the growing nature of the current drug abuse problem among servicemen and veterans had become apparent. During that year, data on the incidence of veterans discharged from VA hospitals with principal or associated diagnoses of dependence upon a number of addictive drugs began to show a substantial increase. The 1971 data showing the skyrocketing incidence of drug abuse in one calendar year is telling evidence of the magnitude of the problem:

TABLE I.—VETERANS' ADMINISTRATION—ADMISSIONS MANIFESTING DRUG ABUSE OR DEPENDENCE

	January–June 1971		July–December 1971	
	Hospital care	Outpatient care	Hospital care	Outpatient care
Opiates and derivatives	1,481	504	5,621	2,856
Other drugs	1,717	525	2,468	842
	January–June 1972		July–December 1971	
Opiates and derivatives	9,413	5,892	5,631	5,010
Other drugs	2,435	917	1,085	620

To meet this growing trend, the VA established five drug dependence treatment centers in Fiscal Year 1971. While original plans were to establish an additional 13 treatment centers in fiscal year 1972, and 14 more in fiscal year 1973, because of the urgency of the situation the VA requested a supplement to its budget request for FY 1972, which was granted by Congress, enabling the VA to open a total of 27 more units in FY 1972. An additional 12 centers were activated in FY 1973, for a total of 44 centers. In some cases, several VA hospitals or clinics jointly comprise one center, as shown in table II below. Thus, altogether, 51 VA hospitals and 2 outpatient clinics are now involved in drug dependence treatment centers.

DRUG DEPENDENCE TREATMENT CENTERS

Each Drug Dependence Treatment Center (DDTC) has an inpatient section and an outpatient section. The suggested inpatient staffing pattern includes a physician, nursing personnel, ex-addict counselors, a psychologist or chaplain (part-time), a social worker, a secretary, lab technician, and a physician medicine therapist. The average inpatient section consists of 15–30 beds and is expected to treat about 200 patients during a 12-month period.

The larger centers (with an outpatient caseload of about 200) have an outpatient staff usually consisting of a physician (part-time), a nurse, a nursing assistant, ex-addict counselors, a part-time chaplain or a psychologist, a social worker, a secretary, lab technicians, a pharmacist, and a statistical clerk. Centers which have a caseload of approximately 125 outpatients use the back-up services of the inpatient staff plus some of the above personnel.

The following table lists centers presently in operation, or planned for future activation.

Table II.—Present and Projected Veterans' Administration Drug Dependence Treatment Centers

FISCAL YEAR 1973

Region 1

Albany (Syracuse), Baltimore,[1] Bedford, Providence, Boston[1] (Hosp. & OPC), Bronx/Montrose, Brooklyn, Buffalo, Coatesville (Phila.), E. Orange,[1] New York,[1] Northport, Phila., Pittsburgh (UD),[1] Syracuse, Washington.

Region 2

Atlanta,[1] Dallas, Houston, Memphis (Little Rock), Miami,[1] New Orleans, Richmond (Salem), Salem, Little Rock.

Region 3

Allen Park, Battle Creek, Brecksville, Chicago (WS), Cincinnati, Downey, Hines, Iowa City, Indianapolis, Minneapolis,[1] Oklahoma City, Omaha, St. Louis, Topeka, Wood.

Region 4

Brentwood, Denver,[1] Los Angeles OPC (Sepulveda), Martinez, Palo Alto, Salt Lake City, San Diego, Sepulveda, Vancouver[1]/American Lake/Seattle.[1]

PLANNED FISCAL YEAR 1974

Harrisburg, Jersey City, Philadelphia, Trenton, Atlanta, Lexington, New Orleans, Norfolk, San Juan, Akron.

Chicago (WS), Cleveland, Gary, Peoria, Tulsa, Berkeley, Long Beach, Sacramento, Tacoma.

PLANNED FISCAL YEAR 1977

Loma Linda.

SATELLITE CLINICS

Houston, San Francisco.

PLANNED FISCAL YEAR 1975

Pittsburgh (LFR), West Haven, Wilmington, Charleston, Louisville, San Antonio, Tampa, Marion, Ind/Ft. Wayne, Long Beach, Albuquerque, Prescott/Phoenix/Tucson.

The VA is currently relying primarily upon methadone maintenance in its centers, but is beginning to focus also on the more promising forms of psycho-social therapy. These forms include psychiatric counseling, group therapy, confrontation, practical job counseling, and social rehabilitation. Many of the DDTC's are now engaged in some experimentation with a drug-free approach and a few are relying entirely on psycho-social forms of therapy.

In order to provide services which are easily accessible to many veterans who do not live in close proximity to DDTC's, the VA has established satellite clinics in two major population centers, Houston and San Francisco. The committee strongly approves of this approach especially the use of storefront facilities coordinated with community-based outreach efforts, and has placed stress on this approach in the reported bill. Such satellite clinics can be most useful to veterans being treated with methadone maintenance. They are staffed by an ex-addict counselor, a part-time doctor, pharmacist or nurse authorized to dispense drugs, and by personnel from the DDTC who provide, on an itinerant basis, treatment and testing as needed. Department of Veterans' Benefits personnel are also involved in these clinics, as well as in the central unit, furnishing veterans assistance counselors, community services specialists, and vocational counselors as needed. Two such clinics are not nearly enough, however, and the committee is not aware of any future activations of such clinics.

[1] Drug Outpatient activity located other than at hospital.

In FY 73 with the additional 12 DDTC's, the VA has advised that it will be able to provide treatment to over 20,000 veterans suffering from drug dependence. This caseload is expected to generate over 800,000 outpatient visits during this year. The system of DDTC's will be staffed with approximately 1,260 specially trained drug treatment personnel in addition to the regular hospital supportive staff. In addition, every other VA hospital is staffed with a special alcohol or drug rehabilitation technician.

The committee notes that this 20,000 estimate is reduced from the 30,000 estimate provided when the report on S. 2108 was filed on September 1, 1972, and is now back in line with the estimate of 19,200 included in the March 27, 1972, VA report to Subcommittee Chairman Cranston.

The figures showing drug abuse treatment by the VA through November 30, 1972, 30 at each VA facility are set forth in the Appendix to this report.

CONTRACTS WITH COMMUNITY PROGRAMS

In addition to the utilization of VA resources, the VA has also contracted with community agencies to treat veterans. Contracts with the New York Narcotic Addiction Control Commission have been signed which will provide a limited range of basic drug treatment services to an additional 1,100 veterans. Another contract has been entered into with the West Philadelphia Mental Health Corporation for the treatment of 80 veterans, and several other such arrangements are under consideration. Under the reported bill, such contract arrangements would be greatly facilitated.

TRAINING

The VA has attempted to provide a training experience for all personnel assigned to work in drug treatment and rehabilitation programs. To date, approximately 1,200 staff members have been trained, ranging from physicians, nurses, psychologists, and social workers, to rehabilitation technicians, vocational counselors, pharmacists and dietitians. Educational and training opportunities have included national and regional conferences, workshops, symposia, institutes, intra- and extra-VA details (e.g. NIMH training centers), consultants and on-site training using ongoing Drug Dependence Treatment Centers.

Approximately $200,000 was set aside in FY 1972 for the training of VA staff in the treatment of drug dependent veterans, and this amount will be expanded in FY 1973. In order to provide further technical assistance and evaluation, a series of site visits covering all DDTC's was conducted in the period March-June 1972. Visitation teams included VA, DOD, and the Special Action Office for Drug Abuse Prevention personnel and consultants. The Committee believes that the results of these site visits should lead to significant improvements in the effectiveness of the DDTC's.

RESEARCH

The VA has sought to make its intramural research resources available and relevant to stated needs for information on the etiology, progress and recovery of drug dependent patients. Fortunately, when the numbers began to mount rapidly in 1971, there was already research projects underway (funded from non-VA as well as VA sources) investigating both basic and applied aspects of the problem. However, to accelerate VA's contribution to the effort, VA Central Office issued a special call for grant applications in the area of drug abuse. The response was immediate and to date over 50 applications have been submitted for review and 34 projects are currently funded (FY 1973—$836,624) ranging from studies on the metabolism of heroin, automated analysis of blood and urine for psychoactive drugs, behavioral effects of narcotic analgesics, to preventing GI drug users from entering stateside heroin subcultures.

A LAAM Cooperative Study (L-alpha-Acetyl Methadol)—a long acting form of methadone) will be initiated soon in three pilot hospitals with 13 more hospitals to follow within 3 months. Planning has been completed for another Cooperative Study on cyclazocine, a narcotic antagonist. Present planning also includes the development of testing laboratories for early human studies on new types of narcotic antagonists as they are made available for investigation. The VA is also continuing its ongoing Cooperative Studies on improving the clinical use of analgesics and on the problem of hepatitis as related to narcotic addiction. Such studies are demonstrations that the VA's existing substantial investment in facilities and personnel to improve the delivery of patient care for veterans enables it to contribute significantly to a national research effort.

A Performance Measurement System (PMS) has been adopted recently by the VA Central Office. Information incorporated in the system relates to activation of centers, treatment modalities, operating levels of each program, services supplied by the Department of Veterans Benefits, types of problems handled for drug patients, productivity and cost factors on both inpatient and outpatient care, research projects funded by VA ex-addicts employed in VA hospitals and clinics and training for drug dependence treatment personnel. The Performance Measurement System is the first part of an overall evaluation system that will reveal, in its second part now being developed, the success of their treatment of drug abuse patients. Evaluation will be based on the following defined goals for VA drug treatment:

1. To eliminate the non-prescribed use of drugs in drug dependent veterans.
2. To develop the work skills and attitudes necessary for patients to become or remain self-supporting in the community.
3. To eliminate antisocial (criminal) activity.
4. To enable patients to establish and maintain stable living arrangements, i.e., arrangements which assure adequate food, clothing, and shelter.
5. To improve and maintain patients' physical condition with respect to drug-related medical problems.
6. To improve patients' abilities to relate to people in their immediate living situations (family, job, etc.).
7. To enable patients to establish and maintain post-treatment community contacts that will support their efforts to remain drug free.
8. To enable patients to experience a sense of psychological well-being independent of the drug culture.

VA ALCOHOL ABUSE TREATMENT AND REHABILITATION PROGRAMS

The Veterans' Administration operates and staffs the Nation's largest single system for alcoholism rehabilitation. Alcohol abuse and related disorders (liver cirrhosis, delirium tremens, neuropathy, alcohol related brain damage, and other complications) represented 13 percent of the total VA hospital discharges for 1969. The VA has over the years concentrated on efforts to identify the early stages of alcohol abuse and to initiate rehabilitative steps for the veteran. Comparable programs have recently been initiated by the Department of Defense. The effect will be a reduction in the likelihood of a veteran becoming a hospital revolving-door emergency case when the later stages of alcohol abuse have been reached.

From 1965 to 1972, hospitalized cases with alcohol-related diagnoses in the VA hospital system increased by almost 150 percent, from 55,000 to 125,000 cases. The majority of these cases represented serious medical complications resulting from late stage alcohol abuse.

Expenditures for the alcoholism rehabilitation program in fiscal year 1970 was only $800,000. In fiscal year 1971, it jumped to $8.1 million, in fiscal year 1972 to $12.5 million, and in fiscal year 1973 a budget of $14.5 million. Treatment facilities for fiscal year 1973 will be increased from the current 41 to 56.

The following table lists VA alcohol treatment units in operation together with those being activated in fiscal year 1973 and projected beyond 1973:

TABLE III.—*Veterans' Administration alcohol treatment units*

ACTUAL IN FISCAL YEAR 1973

Region 1

Albany, Bedford, Brockton, Brooklyn, Canandaigua,[1] Coatesville, E. Orange, Lyons, Northampton.

Region 2

Augusta, Biloxi,[1] Hampton, Houston, Lexington, Little Rock, Mountain Home, Nashville, Salem, Temple, Waco.

Region 3

Battle Creek, Brecksville, Danville, Downey, Ft. Meade, Hines, Hot Springs,[1] Indianapolis, Leavenworth, Lincoln, Marion, Ind., Minneapolis, Okla. City, Omaha,[1] St. Cloud,[1] Tomah,[1] Topeka.

Region 4

Albuquerque, American Lake, Brentwood (LA),[3] Palto Alto (GM), Phoenix, Roseburg, Salt Lake City, Seattle, Sheridan, White City.

PLANNED FISCAL YEAR 1973

Region 1

Albany,[2] Boston OPC, Brooklyn, Buffalo, Philadelphia, Pittsburgh (LFR), Togus, Washington.

Region 2

Salisbury, Bay Pines, Biloxi,[1] Mountain Home,[2] Shreveport, Tuscaloosa, Waco.[2]

Region 3

Downey,[2] Knoxville, Leavenworth,[2] Wood.

Region 4

Ft. Lyon, Roseburg,[2] Seattle,[2] Tucson, White City.[2]

PLANNED FISCAL YEAR 1975

Region 1

Buffalo,[2] Perry Point, Pittsburgh (FLR),[2] West Haven, White Rv. Jct.

Region 2

Biloxi,[2] Hampton,[2] Memphis, Richmond.

Region 3

Hines,[2] St. Cloud.[1]

Region 4

American Lake,[2] Brentwood,[2] Ft. Lyon,[2] Martinez, Prescott, San Diego, Tucson,[2] White City.[2]

Region 1

Bath, Canandaigua,[1] Ft. Howard, Lebanon, Manchester, Montrose, Northport, Togus.[2]

Region 2

Augusta,[2] San Juan.

Region 3

Dayton, Chicago (WS), Omaha,[1] Sioux Falls, Tomah,[1] Wood,[2] Hot Springs.[1]

Region 4

Ft. Harrison, Roseburg,[2] Seattle.[2]

PLANNED FISCAL YEAR 1977

Region 4

Loma Linda.

These specialized treatment units are varied in terms of size and treatment approaches. Units range from 15 beds to nearly 100, totaling about 1,500 and provide from 3 to 12 weeks of inpatient care. Patient self-government is used with success in many units. In general, treatment includes re-education, group therapy, vocational guidance and milieu therapy with emphasis on aftercare and followup. The VA reports that the rehabiltative efforts are successful for about one third of the patients and another third

[1] Station funded—CO funding programmed as indicated.

[3] Transferred from Extended Care Hospital.

[2] Upgrading.

show some improvement. The treatment rendered in VA facilities utilizes the interdisciplinary approach to treatment, involving psychiatrists, psychologists, social workers and other para-professionals.

The growing acceptance of alcoholism as a physical disability rather than a result of intentional misconduct or willful neglect should bring about greater emphasis on treatment of alcohol abusers in VA hospitals. A new and very long overdue DOD directive provides that an alcohol abuser in the military has the same rights as any other sick person and will not lose his pension, retirement, medical or other rights because of alcohol abuse.

It is estimated that alcohol abuse affects about 3 million veterans. The peak incidence is in the 45 to 55 age bracket, mainly World War II veterans. The Committee recognizes the magnitude of the problem and believes that more adequate VA resources must be made available for the treatment and rehabilitation of the alcohol abuser. It plans a major investigation of the VA alcohol program in the 93d Congress.

TRAINING

The maintenance of professional treatment for alcohol abusers in VA treatment programs is of paramount importance. Each Alcohol Treatment Center encourages staff participation in nearby university courses, university summer schools, and provides in-service training to staff members. Innovative treatment approaches and evaluation of existing programs lead to the development of new treatment concepts and necessitate the continuation and expansion of education and training programs.

RESEARCH

The Veterans' Administration conducts one of the nation's largest programs of intramural alcoholism research through individual and cooperative studies. The primary concerns of this research are to develop a wealth of exchangeable information which can not only increase the amount of knowledge in the field but also maximize the effect of varying therapeutic techniques in order to eliminate the problem behavior of the alcohol abuser and help him develop effective coping mechanisms.

In spite of the high incidence of alcohol abuse in the nation, very few large-scale studies have been conductec to evaluate the effectiveness of different drugs used in the treatment of the alcoholic during the withdrawal period. About 25% of all patients undergoing treatment develop withdrawal symptoms (including delirium tremens and convulsions) that are severe and can cause death.

The VA contribution to solving these problems has been through two cooperative studies. The first, "Treatment of Acute Alcohol Withdrawal," was completed in 1969. The second, completed in 1971, was entitled "Treatment of Delirium Tremens." Both studies represent large-scale projects accomplished for the first time in this field.

The former study, involving 537 patients in 23 VA hospitals, established Librium (chlordiazepoxide) as the treatment of choice in the prevention of delirium tremens and convulsions. Seventeen VA hospitals participated in the latter study of 202 patients in the treatment of delirium tremens. The study compared the relative safety and efficacy of chlordiazepoxide, paraldehyde, perphenazine and pentobarbital. Although there were no statistically significant differences in the outcome among the four groups, the use of paraldehyde and chlordiazepoxide resulted in fewer terminations because of worsening signs or symptoms.

In an attempt to resolve the question of what are the criteria for alcoholism, a study is being designed to examine the major and minor factors which could be useful to the practicing physicians in discerning the early developing potential alcoholic. This latter study is being performed in collaboration with the National Council on Alcoholism, Inc., and the Cooperative Studies Program for Mental Health and Behavioral Sciences Service of the V.A.

Interest in Research on alcoholism has also grown with approximately 150 projects underway in VA facilities during the past year. The studies range from basic investigation into the metabolism of Ethanol to evaluations of the outcome of different treatment modalities.

DISCUSSION

Need for the Bill

At present, the Veterans Administration does not have the authority to treat drug dependent veterans (or any veteran for that matter) with less than an honorable or general discharge, except under extraordinary circumstances. As a result, many thousands of veterans who have become addicted while in the service, primarily in Southeast Asia, have been denied the treatment and rehabilitative services which they need to cope with this tragic disability. The President, the Congress, the Veterans' Administration, and the major veterans organizations are all in agreement that new legislative authority permitting the VA to care for all former members of the Armed Forces with drug-related disabilities is necessary. In addition, there is similar agreement that the VA needs legislative authority to provide both inpatient and outpatient treatment to drug dependent veterans regardless of a finding of service-connection, as well as significantly broadened authority to provide appropriate rehabilitative services, and to contract, where appropriate, for the provision of such treatment and services.

Defense Department programs and less than general or honorable discharges

In the summer of 1971, the Department of Defense established a drug abuse amnesty program. The major thrust of the DOD program is the identification and detoxification of drug dependent servicemen. The Committee believes that the extensive program of rehabilitation which must follow identification and initial treatment and which is essential to the successful readjustment to civilian life of a drug dependent serviceman is properly the responsibility of the Veterans Administration. The reported bill includes a provision for the voluntary transfer of servicemen upon request to VA facilities for appropriate treatment and rehabilitative services during the last ninety days of the individual's tour of duty. The bill also provides for an additional treatment period of specified duration beyond the required tour of duty at a VA treatment facility, if requested by the serviceman.

In addition to the amnesty program, the Department of Defense has instituted a new procedure to review and recharacterize to "under honorable conditions" discharges involving drug abuse given before the amnesty program was instituted. This recharacterization policy however, applies only to those administrative discharges issued "solely on the basis of personal use of drugs or possession of drugs for the purpose of such use." Information made available to the Committee indicates that the case-by-case review procedure has proven to be quite slow and burdensome.

Between August of 1971, when the review program was established, and March 1, 1973, 3,398 veterans with drug abuse discharges applied for recharacterization of their discharges; of these 1,367 were upgraded to "under honorable conditions," 924 were reviewed and not recharacterized, and, 1,107 cases are still pending.

This procedure has obviously not provided an effective form of relief for the estimated 18,000 drug abusing addicted veterans who were discharged under other than honorable conditions prior to the institution of the amnesty program and therefore are ineligible for VA treatment. The reported bill would have the immediate effect of removing the bar to VA treatment for these men, as well as very substantially broadening the scope and location of the treatment and services provided for by the VA.

During hearings last Congress and this Congress of many veterans organizations testified in strong support of the treatment of all drug addicted veterans regardless of the nature of discharge or finding of service-connected, and also favored a significant expansion of the treatment and rehabilitative services which the VA is authorized to provide to these men. In his statement to joint hearings of the Subcommittee on Health and Hospitals and the Subcommittee on Alcoholism and Narcotics last Congress, Mr. Francis W. Stover, the director of the national legislative service of the Veterans of Foreign Wars stated:

"What I am saying, Mr. Chairman, is that drug addiction among servicemen and veterans is a veterans' problem. It is the responsibility of the VA. The root cause of drug addiction and use among the majority of veterans is service in the Armed Forces. The Congress should make it clear that this veterans' problem be the responsibility of the VA, the agency of Government created specifically to care for those who have fought our Nation's battles, and his widow and orphan."

In response to a question as to whether he favored the full treatment of drug-addicted military veterans, even though dishonorably discharged, Mr. Stover stated:

"Yes, if they are veterans. The VA should take care of them—rehabilitate them. These veterans are not heroes. But nevertheless veterans who desperately need help. The VA takes care of the aftermath of war and these drug addicted veterans are a part of the war's consequences. . . . We believe the full resources of the VA should be given to solve this problem, whether medical or otherwise. It seems ridiculous to limit the Veterans Administration capability to these drug centers. We think they should use every available resource and service to solve this problem."

If it is determined that the VA is not able to handle it within its own system and also to provide treatment in or near the veteran's community, I think there should be provision for utilization of community and other facilities.

Comprehensiveness of treatment and rehabilitation

The Committee strongly believes that legislation to expand the VA's authority to care for drug and alcohol abusing veterans must include a specific, comprehensive and long-term program of rehabilitation. For the first time under title 38, the reported bill would define "rehabilitative services" generally, as well as for addicted veterans, to include group therapy, individual counseling (including appropriate referrals for legal assistance), education and training, educational and vocational guidance, and job placement in addition to any other services necessary to assist the veteran in his successful recovery and readjustment.

The Committee also believes that such VA drug treatment legislation must emphasize a multimodality, community-based approach. Unless the present VA drug treatment program is improved and expanded in these directions, it is probable that the large numbers of veteran addicts who have thus far not sought out VA treatment will be unlikely to do so in the future.

Need to expand number of veterans served

The Committee recognizes that the Veterans Administration has very substantially upgraded its drug treatment programs and facilities in the last year. VA figures indicate that approximately 20,000 drug abusing veterans have been treated by the VA to date. Present VA plans contemplate the treatment of approximately 20,000 veterans in fiscal year 1973.

However, the bulk of this treatment is confined to detoxification and methadone maintenance, without any effective rehabilitation efforts. And significant progress remains to be made in the numbers treated as well. The estimated total of veteran addicts in the country ranges from a low of 60,000 to 100,000 or more. The Committee notes that according to Defense Department figures, between July 1, 1966, and December 31, 1971, over 21,000 servicemen received discharges termed for "drug abuse." Unquestionably, a great many more servicemen discharged during this period were, in fact then, or at some point during their service, drug abusers, but escaped detection while in service. The breakdown by type of discharge is set forth in the following table:

TABLE IV. DRUG ABUSE DISCHARGES FROM THE ARMED SERVICES

Fiscal year	Totals	Honorable	General	Undesirable	Dishonorable
1967	147	8	20	119	----
1968	1,036	114	336	586	----
1969	2,998	257	1,085	1,501	155
1970	4,769	331	2,143	2,116	179
1971 [1]	7,658	1,052	4,725	1,881	----
1st 6 [1] months of fiscal year 1972	4,478	865	2,865	748	----
Grand total	21,086	2,627	11,174	6,951	334

[1] Estimates based upon applying ½ of the totals for calendar year 1971 to fiscal year 1971 (added to the actual figure for the 1st half of fiscal year 1971) and ½ of such totals to the 1st half of fiscal year 1972. The totals available after fiscal year 1970 were on the basis of calendar years, not fiscal years.

The overwhelming difficulties faced by New York City alone indicate the continuing severity of the problem. There are between 85,000 and 200,000 heroin addicts in New York City alone. The Special Action Office for Drug Abuse Prevention considers 125,000 to be the best estimate of this addict population. The Addiction Services Agency of New York City estimates that a minimum of ten thousand of these addicts are veterans, who have not received any form of treatment.

As recently as June 30, 1972, the VA was treating only 585 veterans at its drug treatment centers in New York City. At the same time, local drug treatment programs were treating an estimated 3,500 veteran addicts; there were an additional 2,000 addict veterans on non-VA methadone maintenance program waiting lists, and an unknown number of such veterans on waiting lists for drug-free programs. To meet part of this need, the Veterans Administration has recently contracted with the New York State Narcotic Addiction Control Commission to provide drug treatment services to an additional 1,100 veterans.

Alternative treatment modalities

The adequacy of a drug abuse treatment program cannot be measured simply in terms of bedspace or the number of doses of methadone dispensed. The testimony at the joint hearings and indeed the entire weight of expert opinion on the problem of drug abuse indicates that effective drug treatment must stress a multimodality approach. The provision of only one modality of treatment—methadone maintenance—at VA stations such as New York City and Los Angeles has had the effect of denying VA care to veteran addicts for whom this modality is inappropriate.

The Committee is impressed by the medical and expert opinions it has received indicating that large numbers of veteran addicts are short-term addicts who have become drug dependent in a foreign land and that such individuals have a far better chance of recovery without methadone maintenance or other substitute drug dependency than the unfortunate longer term "street junkie" of our inner cities. Thus, the reported bill directs the Administrator to offer alternative treatment modalities to each veteran based on his individual needs.

Much is still unknown about the efficacy and the consequences of the maintenance modality of treatment. While maintenance appears to be appropriate and perhaps the only possible treatment for many addicts, there is the serious danger that maintenance will be excessively and unnecessarily relied upon as a drug treatment modality, simply because of the ease of its administration. The urgent social need to reduce street crime which results from widespread addiction—a need which the Committee feels is most pressing—should not obscure the grave responsibility of the Nation to strive for the maximum possible recovery and rehabilitation of veteran drug abusers, many of whom are young men with the potential for self-fulfilling, socially productive lives. To condemn such men to an existence of addiction for many years, given the circumstances surrounding their addiction and their ages, seems to the Committee to be acceptable only as a last resort. Yet just the opposite seems to be the case for most veterans receiving outpatient care in VA drug treatment centers. The following table shows the data for the month of January, 1973 and illustrates that of patients on outpatient care past the detoxification stage (5832), only 2033 are receiving drug-free treatment; in contrast, 60 percent are in methadone maintenance programs (3376) or other chemotherapy (193). Even these figures are not fully revealing because other data indicate that at least 1,000 of those in outpatient care are *non*-opiate users who would not in any event be suitable for methadone maintenance programs. This means that of approximately 4800 opiate addicts on outpatient care, 70 percent (3376) are in methadone maintenance programs. The Committee finds these data very disturbing.

TABLE IV.—DRUG DEPENDENCE TREATMENT CENTERS—JANUARY 1973

	January 1973	July 1972 through January 1973
INPATIENT CARE		
Total admissions	1,317	8,448
Vietnam era	924	5,573
Other periods	342	2,210
ASMRO	44	601
Other military	7	47
Nonveterans	0	17
Dependence on opium drugs	1,057	7,031
Heroin	1,019	6,618
Number remaining end of period	974	----
Detoxification	172	----
Methadone maintenance	226	----
Other chemotherapy	82	----
Drug free	443	----
Other modalities	51	----
Number hospital inpatient days	28,917	200,626
Average daily census	933	933
Number of operating beds	941	941
OUTPATIENT CARE		
Total admissions	998	7,092
From inpatient care	765	5,112
Prebed care	233	1,980
Dependence on opiates	869	6,305
Heroin	844	6,088
Number remaining end of period	6,361	----
Detoxification	529	----
Methadone maintenance	3,376	----
Other chemotherapy	193	----
Drug free	2,033	----
Other modalities	230	----
Number end of period prebed care	598	----
Number of persons visiting	4,713	30,839
Outpatient visits	72,264	451,029

TREATMENT IN COMMUNITY FACILITIES

In addition, at the present time, the great distances which a veteran addict must frequently travel between his home and a VA treatment center is a significant deterrent to an individual who is otherwise motivated to seek VA treatment and rehabilitative services. Even the most motivated veteran addict, who lives 30 miles from a VA treatment center, is understandably discouraged by the prospect of a 60-mile round trip each time he visits the treatment unit.

Asked whether the VA should contract with non-VA programs and facilities to cope with this problem, the National Commander of AMVETS, Mr. Robert Showalter, testified last year:

"By all means, yes. Because of the geographical locations of some of the hospitals, it would mean that a veteran would have to travel 200 or 300 miles for outpatient care. So I do wholeheartedly agree that they should be contracted out to the agencies approved by the Government or the VA."

And Mr. Edward H. Golembieski, the director of national veterans' affairs and rehabilitation commission of the American Legion, testified in the 92d Congress as follows in support of contracting with community-based programs to care for and followup on addict veterans.

While the recent advances by the VA in the treatment of addicted veterans are certainly significant, the Committee is convinced that the Federal Government, through the VA, has a profound and continuing obligation to provide complete and comprehensive treatment and rehabilitative services to each drug dependent veteran who desires such care, particularly in view of the conditions in the Indochina theater which have proved so conducive to the addiction of Vietnam era servicemen. The VA does not have that capability, and will not be able to develop it within its own facilities in the foreseeable future in all areas of the United States where such treatment is needed. Yet the need is there and must be met now. The Committee is convinced that the severity of the present veteran addiction problem requires that resources of non-VA drug treatment program of approved quality be utilized by VA as soon as possible to the extent necessary to meet the full treatment need.

It is important to note that the reported bill requires that the Administrator contract only with those non-VA programs and facilities which he determines provide treatment and rehabilitative services consistent with those which the bill directs the Administrator to provide in VA facilities; and that the Administrator is required to contract with non-VA facilities *only* if the VA cannot promptly provide appropriate modalities of treatment as well as the required rehabilitative services. If the VA should develop the in-house capability to provide appropriate care to all veterans who request it, then there would be no need for the Administrator to contract with non-VA programs and facilities, and the reported bill does not require him to do so under such circumstances.

The Committee notes that the VA stated last Congress: "We favor the basic contract authority to permit us to provide care and services in non-VA facilities, when appropriate," the Committee believes that it is not only appropriate but essential that such facilities be available to any drug dependent veteran to whom the VA cannot provide appropriate treatment and rehabilitative services within its own facilities.

The effect of the reported bill's provisions is that only if a veteran requests but is not promptly provided with appropriate treatment and rehabilitative services in a VA facility, or if he requests a particular modality of care which is not readily accessible in a VA program or facility, is the Administrator required to contract with a non-VA program or facility for such treatment and rehabilitative services. In this way, no addict veteran will be denied VA care because an appropriate treatment modality is not accessible in a VA facility. Nor will addict veterans be forced to leave their communities and families to seek care in an unfamiliar environment.

The evidence presented to the Committee strongly indicates that the best place to try to bring about a veteran's rehabilitation is in his home community where the support of family and friends is available as well as the maximum assistance in terms of living arrangements, and so forth.

COMMUNITY-BASED OUTREACH EFFORTS

In order to provide the greatest relevance, credibility, and accessibility to existing VA treatment facilities, the reported bill requires that the VA provide care in half-way house and other community-based facilities within its jurisdiction, such as store fronts located in areas with large numbers of addict veterans, in addition to the already existing traditional hospital and outpatient clinic settings. As noted above, the VA has already made a beginning in this direction.

To provide the extensive new treatment and rehabilitative services mandated by the reported bill to as many veterans as possible, the Administrator is provided the affirmative responsibility to seek out and counsel toward treatment and rehabilitation as many addict veterans as possible. The Administrator is authorized and urged to hire or contract for the services of ex-addict veterans to carry out this responsibility as effectively as possible. Likewise, in contracting for the services of non-VA programs and facilities, the Administrator is directed to give priority to community-based, multimodality treatment and rehabilitation programs which include former addict veterans as staff counselors.

TREATMENT OF VETERANS INVOLVED IN CRIMINAL CASES

The reported bill would also provide for the provision of treatment and rehabilitative services to veterans charged with or convicted of criminal offenses, but who are not incarcerated or participating in the program under court order, and, to the maximum extent feasible, for the on-going treatment of incarcerated veterans who were receiving treatment and rehabilitative services at the time of their confinement in a local jail. The responsibility of the Administrator to provide appropriate care to such an incarcerated veteran would continue until that responsibility is assumed by a non-Veterans Administration facility or program.

In addition, in order to provide the VA with maximum administrative flexibility, the reported bill also gives the Administrator discretionary authority to provide in VA facilities treatment and rehabilitative services for addicted veterans who would participate in the VA program as a condition imposed by the court, but to do so only where an individual case-by-case decision is made that the veteran's participation under such quasi-mandatory circumstances and conditions will not operate to impair the voluntary character of the particular VA treatment program. In adding this provision, the Committee intended to strike a balance between the needs of the particular veteran under court jurisdiction and those of the veterans in the VA treatment program.

Substantial testimony last Congress urged that everything be done to ensure that VA programs not assume responsibility for any mandatory type of treatment. In this regard, the Chief Medical Director of the VA testified:

"Our facts thus far indicate the critical factor in rehabilitation of a drug user is motivation, his desire to be rehabilitated. If, indeed, he is committed [by the court] and the desire is not present, and if, indeed, the commitment acts as a restraint to motivation, then we would have very little assurance that whatever our efforts might be that they will be successful."

At the same time, the Committee was concerned about the situation in which the VA program might in some places be the only available or appropriate program and thus be the only alternative to continued incarceration of the veteran addict in question. Thus, treatment under certain conditions was authorized in the reported bill.

SPECIAL PROGRAM OF REHABILITATION

The reported bill establishes a Special Rehabilitation Program of education and training under chapter 17 for an addicted veteran discharged after January 31, 1955, with a discharge under other than dishonorable conditions who has GI Bill eligibility, to the extent of that entitlement. Under the Special Program, any veteran addict applying for drug addiction treatment who has GI Bill eligibility must, as a precondition to entering such a treatment program under VA auspices, sign an agreement giving the Administrator the right to dispose of such veteran's GI Bill entitlement to the extent of and to pay for his participation in a comprehensive rehabilitation program. The veteran could continue participation in this Special Program, his GI Bill entitlement permitting, regardless of discharge, for up to one year after discharge from the program of treatment and rehabilitative services.

The Committee believes that the nature of a drug disability requires the specific, personalized type of assistance which has characterized the VA chapter 31 vocational rehabilitation program if the addict veteran is to have a realistic chance of achieving employability and making a productive and personally rewarding readjustment to civilian life. The payment of costs of education and training which the reported bill would provide using the veteran's GI Bill entitlement is particularly important to the successful rehabilitation of the many tens of thousands of addict veterans in the country today.

The Administrator would also be authorized—as he is under the chapter 31 vocational rehabilitation program—to assist in the rehabilitation of addict veterans by the maximum utilization of VA facilities, the employment of additional personnel and vocational rehabilitation experts, the cooperation with other Federal and state agencies for job referral, and contracts with approved public or private institutions and programs for additional suitable vocational training facilities.

In addition, medical evidence as well as the experience of successful drug treatment and rehabilitation programs to date indicate that a modest subsistence allowance is necessary for a veteran who is undergoing what frequently must be a full-time program of treatment and rehabilitation and who cannot usually find or hold a job in the meantime. The process of recovery from drug addiction is one of the most difficult readjustment processes. Therefore, the reported bill provides for the payment of a monthly subsistence allowance of not less than 75% of, nor more than, the full amount of the subsistence allowance provided under chapter 31 (Vocational Rehabilitation) of title 38.

The Committee wishes to emphasize that eligibility for participation in this special education program does not in any way reward the veteran addict. Rather, the reported bill recognizes that the addict veteran is suffering from a disability of a particularly severe nature, and seeks to provide the addict who is motivated to recover from his disability with the comprehensive vocational rehabilitation assistance needed to give him a realistic chance of substantial or complete recovery. It is indisputable that even the most complete treatment program is of little value to an addict who is not qualified for and cannot find a job.

The participating veteran would "pay" a month's GI Bill benefit entitlement (under chapter 34 of title 38) for each month he stays in the Special program. Thus, all funds expended by the VA on the veterans' rehabilitation would be money to which he would be entitled under the GI bill.

Furthermore, eligibility for the Special Rehabilitation Program is conditioned on the continued participation of the eligible veterans addict in either a Veterans Administration program or a non-VA program which the Administrator has approved, and, following discharge from such a program as recovered, upon the veteran's continued recovery from his addiction. Thus, a veteran addict participating in the Special Rehabilitation Program would have to stay basically "clean" of illicit drugs.

The Committee carefully considered and found unpersuasive the contention of the Veterans Administration that the rehabilitation for veteran addicts after treatment should be carried out within the present structure of the GI Bill program. Rather, the Committee determined that an addict treatment program can have lasting effect only if fully integrated with a comprehensive rehabilitation program and that the relatively *laissez faire* approach of the GI Bill was not generally well suited for the education and training of a recovered addict fresh from a treatment program. The testimony strongly suggested that the rehabilitation program for such an addict must be developed on an individualized basis in terms of the degree of recovery the addicted veteran is making or has made and his particular abilities and needs, and this requires extensive counseling, guidance, planning and direction which is not a standard part of the GI Bill program.

The Committee was keenly aware of the pitfalls involved in expecting a former addict to have the control and internal discipline so soon after his detoxification to be able to marshal the ($220 or more) monthly GI Bill check to meet his basic needs and to select and progress in an appropriate course of education or training at an appropriate institution or establishment given the wide variations among each veteran's qualifications, potential and the extent of his recovery. In the same way, the Committee believed that the veteran addict would need some funds available for his subsistence after the VA had assisted him in selecting and pursuing an appropriate course of education or training and thus provided for the subsistence allowance, described above.

In sum, the thrust of the Special Rehabilitation Program is not to create a new monetary or service benefit for veteran addicts, but rather to utilize creativity and fully the veteran's existing benefit entitlements in order to extend to veteran addicts the type of comprehensive program of vocational rehabilitation they require.

BUDGET LINE ITEM FOR DRUG AND ALCOHOL ABUSE TREATMENT AND REHABILITATION AND ANNUAL AUDIT

The reported bill requires that the VA annual budget include a separate line item for the treatment and rehabilitation of alcohol and drug dependent veterans under the provisions in the bill. In this way, the Committee seeks to insure that the funds which this bill would call for provide for the urgently needed expansion of VA addict treatment programs are not diverted to meet the unexpected needs of other aspects of the VA hospital medical program. The budget item would include estimated expenditures both from medical care appropriations and GI Bill moneys disposed of at the direction of the Administrator.

In addition, the reported bill gives the Comptroller General access to all books and records of non-VA property in order to facilitate audit, and directs that compliance with the medical confidentiality provisions in the reported bill be complied with fully in any such audit. The Committee believes that such an audit will be of significant assistance to the Congress in assessing the effectiveness of the treatment and rehabilitation program carried out under the provisions in the reported bill through the use of GI bill entitlements.

TRANSFER OF ACTIVE DUTY SERVICEMEN TO VA FACILITIES

At hearings on September 9, 1971, the Committee was distressed to learn of a change in Department of Defense policy with respect to the transfer of active duty addicts during their service to VA facilities for treatment. Prior policy had permitted such transfers only when requested by the serviceman in question as one of three options: treat-

ment in a military facility; treatment in a VA facility; "early out" separation. The revised policy offered him only two options: treatment in a military facility or treatment in a VA facility. The concern of the Committee is expressed in the following April 17, 1972, letter to Dr. Jerome Jaffe, Director, Special Action Office for Drug Abuse Prevention, Executive Office of the President, from Senator Alan Cranston, Chairman of the Subcommittee on Health and Hospitals:

APRIL 17, 1972.

DR. JEROME JAFFE,
Director, Special Action Office for Drug Abuse Prevention, 726 Jackson Place, Washington, D.C.

DEAR DR. JAFFE: During your appearance before the Subcommittee on Health and Hospitals of the Veterans' Affairs Committee on September 14, 1971, you discussed the procedures followed by the Department of Defense in providing medical treatment to drug dependent separatees. Following the hearings you provided the Subcommittee with DOD directives on these procedures.

These directives indicate that the separatee is given the opportunity to choose between treatment in an Armed Forces facility or in a Veterans Administration facility. No other choice is open to him since the directive no longer permits an addicted serviceman to be processed under the "early out" procedure. The effect of this is that if he refuses treatment in an Armed Forces facility, the September 10, 1971, directives prohibit him from declining transfer to a VA facility; "Drug dependent personnel are not to be given the option of declining transfer by Armed Services Medical Regulation Office to Veterans Administration, although strong preference for another civilian treatment facility may be accommodated in appropriate cases." The Directive closes with the following sentence: "This message supersedes any previous instructions stating or implying that the drug dependent separatee may decline transfer to a Veterans Administration facility prior to discharge."

I do not see how any interpretation can be placed on this directive other than that some servicemen are being transferred through ASMRO to VA drug programs who do not want drug treatment at the VA facility. The effect of this directive will very likely be an overcrowding of the limited VA facilities by separatees in the last weeks of their service who have no inclination to seek treatment for their illness. At the same time, the 32 drug treatment centers of the Veterans Administration have waiting lists of veterans who are self-motivated to seek treatment. Using the limited resources of the Veterans Administration to care for these veterans would be far wiser, I believe, than using these resources for the temporary housing of members of the services who are assigned to them without electing, or even with a strong indisposition for, treatment.

A better solution to the disposition of the drug dependent serviceman about to be separated from the Armed Forces would be intensive counseling by an appropriate person followed by assignment to a DOD medical facility unless he voluntarily chooses assignment for the remainder of his duty to a VA or community facility and understands that such assignment involves a commitment on his part for a protracted treatment period that could last up to a year or more.

I think medical opinion is in general agreement that a treatment and rehabilitation program for drug abusers cannot be effective unless the patient himself is motivated to seek treatment. The Chief Medical Director of the Veterans Administration, Dr. Marc J. Musser, testifying on July 20, stated in connection with the related question of civil or criminal commitment: "Our facts thus far indicate the critical factor in rehabilitation of a drug user is his motivation, his desire to be rehablitated. If, indeed, he is committed and the desire is not present, and if, indeed, the commitment acts as a restraint to motivation, then we would have very little assurance that whatever our efforts might be that they will be successful."

And in your September 14 testimony, you stated in connection with the same question: "Involuntary civil commitment, as we know it today, might require additional specialized treatment facilities since those coerced into treatment often impair the effectiveness of programs designed for volunteers. Those addicts who require coercion should not be integrated into a regular treatment milieu for they destroy the therapeutic atmosphere for others."

I would assume that since the DOD directive of September 10 you have had some experience with the assignment of separatees to VA treatment centers for drug addition treatment and rehabilitation. It would be of great interest to the members of the Subcommittee if you could provide a report on the effectiveness of such a procedure in enrolling separatees in continuing programs of treatment after their discharge. (I understand that significant numbers of such servicemen upon receiving discharge papers just leave the hospital.) Please indicate in your report the number of those assigned to VA facilities who left at the end of their tours of duty without completing a treatment program and the number of those who voluntarily continued their treatment programs at the end of their tours of duty. The report should also indicate the capacity of the facility to provide treatment, the number of veterans seeking treatment at the facility, and, if possible, an estimate of the veteran population in the geographic area who are drug dependent and who if adequate outreach services were provided could be expected to seek treatment at the facility.

Thank you for your consideration of the points I have made and for your continuing cooperation with the Subcommittee.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals.

Although no reply has been made to the above letter, it is the Committee's understanding that the success rate of treatment for servicemen transferred to the VA for treatment because they do not wish to remain in a military facility (rather than that they *elect* VA treatment) has been extremely low. Because of this and the concerns expressed and the testimony quoted in the letter, the reported bill includes provisions authorizing transfer of active duty servicemen to VA facilities for treatment within the last ninety days of their service only if the serviceman specifically requests such transfer for a specified period of time (and any specified extension of that period) in writing.

MEDICAL CONFIDENTIALITY

The Committee was extremely concerned about the possibility that in the past a number of addict veterans who might otherwise have sought VA treatment have not done so for fear that the fact of their disability and information revealed during treatment would not be kept confidential.

There was ample reason to believe that until the summer of 1972 the fear of many veterans about such VA disclosure of information relating to treatment for drug dependence was, in fact, well-founded. Prior to the enactment of P.L. 92–255, the "Drug Abuse Office and Treatment Act of 1972" (March 21, 1972), the Veterans' Administration regulations permitted the release of medical information pertaining to such patients to all other Federal agencies and to state unemployment and state health agencies at the request of such agencies. This release was often made without the veteran's consent. In cases where information was released without the veteran's consent, the veteran was not advised of this disclosure.

On the other hand, the application of section 408 of P.L. 92–255, rendering confidential the records of the identity, diagnosis, prognosis, or treatment of any patient or expatient, maintained in connection with any drug abuse function and authorizing their release for only certain very limited purposes and under prescribed conditions, has created several problems which, the Committee believes, can best be dealt with by amendatory legislation. While we fully concur in the purpose of this confidentiality provision, its restrictive language, as initially interpreted, in some cases actually worked to the detriment to the patients concerned.

The following were some of the situations the VA encountered initially after P.L. 92–255 was enacted and before revised regulations were issued under that Act on November 17, 1972, and which can best be dealt with by the enactment of a somewhat broader authority to disclose records of drug treatment. Most of the following arose as an actual case or cases.

1. Several cases have arisen in which a veteran being provided drug treatment and rehabilitation by the Veterans Administration has faced criminal prosecution for a drug-related offense and his attorney has requested a statement from the VA to the effect that he has enrolled in its drug rehabilitation program, is continuing to receive treatment, and is progressing well. The attorneys desired the statements for use in the veterans' defense in attempting to obtain probation or a lesser sentence. Under section 408, the VA has been unable to provide such statements. Some of the more critical cases, such as where the person is in jail and the record of his participation in a VA drug treatment program is essential to obtaining his release, have been handled sympathetically by the VA's interpreting certain court officials as "government personnel" and his release from jail as a "benefit" within the terms of release exceptions under section 408.

2. For many years, representatives (recognized and accredited by the Veterans Administration) of veterans service organizations either named by the Congress or approved by the Veterans Administration and of the American Red Cross have, pursuant to law (now 38 U.S.C. Chap. 59), been recognized in the preparation, presentation, and prosecution of claims of veterans and their dependents and survivors under laws administered by the Veterans Administration. These accredited representatives have performed and continue to perform an invaluable service to veterans and their survivors, without charge to claimants. In the case of drug patients, section 408 precludes the VA from furnishing any information to or allowing the veterans' accredited representatives to review their clients' VA records. The net result of this provision is to deny these veterans the right to representation in connection with their claims before that agency.

3. Section 3404 of title 38 has also authorized, for many years, the recognition by the Veterans Administration of attorneys of claimants and certain others in connection with the preparation, presentation, and prosecution of their claims under VA legislation. Section 408 similarly precludes the release of information from the records of drug patients to these attorneys. Although the VA has not reported any actual case in which the confidentiality provision of existing law has created a problem as regards attorneys in this setting, a similar broadening of the authority to make disclosure to these individuals is desirable to deal with the issue.

4. One of the most critical and difficult problems has arisen from the VA's inability to disclose drug-related information to prospective employers of these patients. It is well recognized that the rehabilitation of drug dependent individuals is not completed until the patient has been employed and is actively involved in a job and participating

in society in general. In light of this, the VA has undertaken to contact potential employers, acquaint them with its program, and persuade them to employ partially rehabilitated drug patients. This activity has, according to the VA, worked very well and employers have been very willing to accept these drug patients as employees. Unfortunately, the confidentiality provisions of section 408 have, for all intents and purposes, completely stopped this effort since they preclude the VA from identifying drug patients as such in contacting employers and attempting to place the patients in jobs. It is readily apparent that this result is actually harmful to, rather than protective of, these veterans.

(5) Throughout the country, registers are being kept of patients receiving methadone maintenance. In some cases, these are operated by State or municipal governments; in other instances, the records are kept by eleemosynary organizations or institutions; and in a few locations, private individuals maintain the registers. The purposes of the registers are to insure that a patient does not receive duplicate methadone dosages from more than one treatment center and thus injure or kill himself from an overdose, or to prevent the patient from selling the duplicate methadone dosage to others. Under section 408, with the patient's written consent, the VA now cooperates in most of these methadone registers under the authority to disclose information to "medical personnel for the purpose of diagnosis or treatment of the patient." The problem arises in connection with registers not maintained by medical personnel. Broadening of the law is necessary to provide clear authority for the VA to cooperate with all of the registers, whether or not maintained by medical personnel.

(6) Where the patient is deceased, and the disclosure of such a drug abuse record, information, or fact is necessary for any of the survivors of such patients to obtain other benefits to which they may be entitled, section 408 precludes the VA from disclosing such information, which works as a hardship for the survivors. This information—where the drug patient may not have voluntarily requested in writing a waiver of confidentiality—may be required in order to develop claims for benefits to which the survivors are potentially entitled, under programs administered by the Federal Government, by other governments, by private industry, and by other entities. Again, although the situation has not arisen, specific language would be necessary to permit release of information looking toward the development of a potential claim where there has been an alleged malpractice action or other tort. There are, of course, other types of litigation with respect to which the now confidential information might also be essential.

To try to meet many of these concerns, the VA issued on July 12, 1972, VA Circular 00–72–19 "Release of Information under Drug Abuse Office and Treatment Act of 1972," (which was set forth in full in the Committee report (S. Rept. No. 92–1084) on S. 2108 which amplifies an earlier very restrictive issuance of April 20, 1972. Again, on December 11, 1972, the VA issued a new instruction, Circular 00–72–27, superseding the previous one and based upon a November 17, 1972, regulation issued by the Special Action Office on Drug Abuse Prevention (SAODAP) (37 Fed. Reg. No. 223). The VA has advised that the situations outlined in items (1), (2), (3) and (5) have been largely resolved by the new regulations based on SAODAP's recent interpretations—which the Committee has been informed are considered to be extending the provisions of P.L. 92–255 to the very limit. However, the situation of release of information in connection with employment described in item (4) has not been resolved at all, and the situation regarding deceased patients described in item (6) has not been resolved unless the administrator or executor wishes the release. The Committee feels strongly that remedial legislation is thus needed to resolve all of these situations clearly and forthrightly.

The new Circular is as follows:

CIRCULAR 00–72–27

VETERANS ADMINISTRATION,
Washington, D.C., December 11, 1972.

RELEASE OF INFORMATION UNDER DRUG ABUSE OFFICE AND TREATMENT ACT OF 1972, PUBLIC LAW 92–255

1. On November 17, 1972, the Director of the SAODAP (Special Action Office for Drug Abuse Prevention) published, in volume 37, number 223 of the Federal Register, regulations interpreting section 408 of Public Law 92–255, covering both procedural and substantive isues arising from section 408 of that law, dealing with the confidentiality of patient records maintained in connection with drug abuse prevention functions. An explanatory statement was also published in the same issue. The regulations became effective November 17, 1972. A copy of the regulations and statement is forwarded herewith.

2. The SAODAP regulations apply to, and are controlling on, all departments and agencies in the executive branch of the Federal Government involved with drug abuse prevention functions. To the extent that they are in conflict with VA issues interpreting section 408 of Public Law 92–255 (including VA Circulars 00–72–10 and 00–72–19), the SAODAP regulations will govern. The VA issues are being rescinded but since there are some aspects of section 408 of Public Law 92–255 dealt with by them that are not covered by the SAODAP regulations, the still controlling section of those circulars are restated herein.

3. Your attention is particularly invited to the following provisions of the SAODAP regulations:

Section 401.04 authorizes a court appointed guardian, conservator, or other designee to furnish consent in the case of an incompetent patient and an executor, administrator, or other personal representative to give consent in the case of a deceased patient.

Section 401.23(b) authorizes disclosure to VA personnel for the purpose of determining a patient's eligibility for veterans' benefits and defines VA personnel as including "any personnel (whether or not employed or compensated by the VA) authorized by the VA to assist patients in the preparation and submission of their claims."

Section 401.26(a) authorizes disclosure, under specified conditions, of certain drug related information to an employer, whenever a patient or former patient "has been employed or been accepted for employment conditioned upon his progress or status in a treatment program."

Section 401.26(b) authorizes disclosure of certain drug related information to members of the patient's family, under cicumstances noted.

4. With respect to the release of drug related information to accredited representatives of organizations recognized under 38 U.S.C. 3402, in accordance with section 401.23 of the SAODAP regulations, the patient's power of attorney in favor of the organization will be deemed to constitute the required written consent.

5. The new regulations should be given wide dissemination at the station level to all personnel involved with drug patients or the records of such patients. They should be cautioned that the authority contained therein must be exercised only in accordance with the explicit conditions and criteria specified.

6. Those provisions of Circulars 00–72–10 and 00–72–19 which are adopted in this circular are restated as follows:

a. While Public Law 92–255 became effective on March 21, 1972, the Administrator has determined that VA records disclosing drug use or drug abuse treatment provided patients at any time prior to March 21, 1972 (whether the record pertains to VA, one of the military departments, or others) will be handled in accordance with the spirit expressed in Public Law 92–255. Consistent with 21 CFR 401.23 and 401.25, such information may be disclosed to accredited representatives with a proper power of attorney, to attorneys representing the claimant, and to Members of Congress.

b. The term "government personnel" in section 408(b)(1)(B) of Public Law 92–255, includes personnel of the Federal, State, county, and municipal Governments. Release of information to these officials, with the written consent of the patient, is authorized only for the purpose of obtaining benefits. "Government personnel" also includes members of Congress who indicate that they are attempting to aid the patient in securing benefits to which he is entitled. If VA is informed by another Government agency that the patient or former patient has given written consent, the agency will be requested to furnish a copy of the consent for VA files. With respect to Members of Congress, it will be assumed that they have the consent of the patient.

c. For the purposes of the release of information in the custody of the VA, under section 408(b)(2)(C) of Public Law 92–255, a "court of competent jurisdiction" is any Federal court. If the records are sought to be used in a hospital collection case in which the plaintiff's attorney has agreed to include the Government's claim, an order issued by a proper court must be obtained even though the veteran has consented to release. The foregoing limitation of a "court of competent jurisdiction" to a Federal court does not preclude disclosure of information in the custody of the VA to State or municipal courts in those situations where the veteran has provided his written consent and the release is sought for the purpose of obtaining benefits since officials of such courts are considered to be "governmental personnel.

7. Recissions: VA Circulars 00–72–10 and 00–72–19

DONALD E. JOHNSON,
Administrator.

To alleviate the apprehension of veterans and to provide full protection for veteran addicts who seek and receive treatment and rehabilitative services from the VA, the Committee has included in the reported bill a strict medical confidentiality provision which provides criminal sanctions for unauthorized disclosure of information but which at the same time meets the legitimate needs for disclosure identified above. The Committee substitute requires that all records made or information divulged in connection with treatment and rehabilitative services, as well as the fact of such treatment, provided under the new subchapter, be kept confidential by the Administrator except under the following circumstances: (1) if a veteran voluntarily requested disclosure (A) to medical personnel for additional diagnosis or treatment, or (B) to his attorney, or (C) to government agencies or a named person or organizations (i) to obtain benefits to which he is entitled or (ii) where a VA treatment facility director determines disclosure would clearly benefit the veteran; (2) if competent medical authority determines that the veteran is a clear and present danger to himself or others and that disclosure is necessary to alleviate this danger; (3) if the veteran is deceased and the Administrator determines disclosure is needed for his survivor to obtain a benefit or bring a lawsuit; or (4) if such disclosure is authorized by a court order.

The Committee was particularly concerned that these medical confidentiality requirements not interfere with the appropriate access of veterans' organization service personnel to VA treatment records. This was the single greatest problem arising as a result of the original interpretation of the medical confidentiality provisions included in P.L.

92-255, and the Committee expressly intends that section 658(b)(1) in the new subchapter be construed to permit disclosure of necessary treatment records to veterans' organization service officers in connection with their representation of veterans in VA claims pursuant to powers of attorney when the veteran addict signs a separate release statement expressly by waiving the confidentiality provisions regarding addition treatment. (Such a release statement and signature could be included as an additional specific item in the present standard VA power of attorney form.)

IMPORTANCE OF PROVIDING TREATMENT AND REHABILITATION TO ALCOHOLIC AND ALCOHOL DEPENDENT VETERANS UNDER THIS BILL

Although the VA is giving primary emphasis to the treatment of drug addicted veterans and public attention is now focused on that aspect of addiction, the Committee is greatly concerned by the fact that alcohol abuse affects an estimated 3 million veterans. Indeed, the Veterans' Administration estimates that one third of the total alcohol abusing population are veterans. For far too long alcoholism has been the most prevalent and yet untreated disease in this country.

The Veterans' Administration operates the nation's largest unified system of alcoholism treatment and rehabilitation. In 1972, for example, alcohol abuse and related disorders accounted for 11.2% of total VA hospital discharges. This was 124,948 patients.

The Committee believes that the VA should and must play a larger role in the stepped up national fight against alcoholism. The new section 629 in the reported bill is designed to enable the VA to utilize its enormous resources in this urgent effort to a far greater extent than it is now doing.

The Committee has reluctantly deferred to the strong feeling in the other body against including alcoholism in the same treatment category as drug addiction, as was done in S. 2108. An integrated approach and program is particularly desirable with respect to the treatment and rehabilitation of returning veterans since there are indications of substantial mixing and crossovers between abuse of drugs (barbiturates and opiates) and alcohol. The Committee is extremely concerned about the alcoholism treatment of veterans by the VA, and the Subcommittee on Health and Hospitals in planning a major investigation in this field during this Congress.

PSYCHIATRIC CARE AND READJUSTMENT MEDICAL COUNSELING

The Committee was convinced by extensive testimony developed at hearings on veterans readjustment conducted by the Subcommittee on Veterans Affairs at the end of the 91st Congress and hearings on this legislation in the 92d Congress and by medical evidence that significant numbers of Vietnam era veterans who are not addicts have nevertheless suffered severe psychiatric problems. These problems are frequently of a subtle nature and do not always manifest themselves soon after discharge. Therefore, the reported bill provides that a psychosis which arises within three years after discharge, rather than an active psychosis which arises within two such years (as the present), will be presumed to be service-connected. The effect of this is to authorize the provision of unlimited outpatient care for veterans meeting these criteria of disability.

In 1951, section 602, containing the original active psychosis presumption, was added to title 38 by Public Law 82-239. The House passed bill—H.R. 320—had included a three-year period for active psychosis and the Senate reduced it to two years—(S. Rept. No. 749, 82d Cong., 1st Sess. 1951.)

The Committee is of the view that the same justification underlying the original provision for active psychoses arising from World War II and the Korean conflict should be applied to the types of psychatric conditions which seem to characterize the Indochina War. The purpose and rationale of section 602 were described in the 1951 House and Senate committee reports as follows:

"The Committee is of the opinion that the bill is fully justified in view of the difficulty medical science has in tracing the exact causes of psychoses. The additional presumptive period would authorize service connection in many meritorious cases which are barred under existing law. The presumption is of course rebuttable when there is affirmative evidence to the country. . . . (H.R. Rept. No. 239, 82d Cong., 1st Sess. 2 (1951)).

"It is generally recognized that the disease of psychoses is not only an individual problem but involves broad social aspects as well. It is urgent that those who suffer from this unfortunate malady should receive prompt and complete institutional care and treatment. Although war veterans are now entitled to hospitalization by the Veterans' Administration for non-service-connected psychosis, their admission is subject to availability of beds and their inability to defray the expenses. . . ." (S. Rept. No. 749, 82d Cong., 1st Sess. 2 (1951)).

Of greater significance, the reported bill directs the Administrator to provide readjustment medical counseling and appropriate follow-up care to Vietnam era veterans with other than a dishonorable discharge (or a discharge barred under section 3103 of title 38) upon the veterans' request. The purpose of this provision is to make fully available—and to encourage and facilitate the use of—the full resources of the VA's medical services to those returning veterans who feel the need for professional counseling to help them in their readjustment to civilian life.

In the sensitive field of psychological or psychiatric counseling, the Committee believes that availability and ease of access to such services must be emphasized and all unnecessary barriers removed. A recently returned veteran should know that help is available, and that if he asks for it his request will be speedily honored.

Under present VA law and regulation, a veteran is not eligible for outpatient care unless it is established that he is suffering from a service-connected condition or is in need of hospitalization. Under this new provision, all VA facilities which can assist in readjustment will be made more visible and accessible.

The Committee believes that the provision in the reported bill to provide readjustment counselling in all VA facilities under the general direction of the Department of Medicine and Surgery—taking full advantage of its 961 psychologists, 304 psychologists' attendants and technicians, 707 psychology trainees, 2198 social workers, 335 social workers associates, and 479 social work trainees—can be of significant assistance to the successful readjustment of large numbers of recently discharged veterans, both addict and nonaddict.

CONCLUSION

The need for the type of approach embodied in the reported bill is summed up concisely and effectively in a June 26, 1972, letter to Senator Cranston from Dr. Jerome H. Jaffe, Director, Special Action Office for Drug Abuse Prevention, Executive Office of the President. The administration's chief drug treatment spokesman wrote as follows:

"* * * The message I hoped to convey at the press conference was that veterans should have access to all community-based treatment programs and not be restricted to what the local Veterans' Administration Hospital can offer at any one moment in time.

"More importantly, your query concerning the general strategy which the government should employ to care for veterans addicts is timely. Title III of PL 92-255 requires the development of a general strategy for all federal drug abuse prevention functions by December 1972. We are now working with the Veterans' Administration structure that part of the total strategy which will address the veteran drug abuse situation:

"Some of the major issues which this strategy will address are:

"(a) establishing and sustaining links and administrative vehicles for utilizing local community-based resources, both as an adjunct to the Veterans' Administration care delivery system for drug dependent veterans, and offering these veterans, through referral, a wider variety of treatment/rehabilitation modalities;

"(b) establishing a broader variety of rehabilitation modalities at Veterans' Administration treatment centers;

"(c) establishing residential, therapeutic community facilities within the Veterans' Administration care delivery system;

"(d) broadening the treatment base to include all veteran addicts, regardless of type of discharge;

"(e) initiating cooperative Veterans' Administration-other hospital and medical institution research clinical studies;

"(f) targeting Veterans' Administration capacities for skills training, supplemental education and job placement assistance for ex-addict veterans to lay a firm base for the rehabilitated veterans to resume a normal life style; and

"(g) developing innovative outreach capability to induce drug dependent veterans into appropriate treatment/rehabilitation programs, regardless of who administers the program."

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress), the Committee, with the help of some technical assistance by the VA, estimates the following costs for carrying out the provisions of the reported bill in fiscal years 1974 through 1978, stressing that the VA was unable to provide any cost estimates whatsoever:

ESTIMATE OF ANNUAL COSTS, S. 284

Item	Fiscal years				
	1974	1975	1976	1977	1978
Drug Addiction:					
Hospital care	$67,750	$67,750	$67,750	$67,750	$67,750
Domiciliary care	61,200	61,200	61,200	61,200	61,200
Outpatient care	[12] 3,888,000	3,888,000	3,888,000	3,888,000	3,888,000
Rehabilitation	107,700,000	5,026,000			
Outreach and counseling	2,027,000	2,027,000	1,000,000	1,000,000	1,000,000
Psychoses and readjustment medical counseling	[13] 15,392,000	15,392,000	15,392,000	15,392,000	15,392,000
Alcoholism treatment and rehabilitation	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000
Total	144,135,950	41,467,950	35,408,950	35,408,950	35,408,950

Assumptions and estimates—S. 284

Veterans population Dec. 31, 1971:	
Vietnam era	$5,597,000
Post-Korean	3,116,000
Vietnam Era veterans:	
Military discharges [1] for:	
Drug addiction	21,000
Alcoholism	
Total	22,000
Veterans developing condition:	
Drug addiction [2]	60,000
Alcoholism [3]	150,000
Total	210,000
Total eligible (drug)	81,000
Total eligible (alcohol)	151,000
Post-Korean Conflict veterans:	
Drug addiction [4]	10,000
Alcoholism [5]	84,000
Estimated dishonorably discharged Vietnam era veterans having a drug or alcohol problem (from DOD)	800
Costs for drug addiction treatment:	
Hospital care: Additional cost would be for estimated 70 patients at an average of 25 days at $37	67,750
Domiciliary care: Same as for hospital care except an estimated 17 members at $3,600 per year	61,200
Outpatient care:	
Fee cost per outpatient visit	$11.00
Administrative costs	$9.00
Total cost per visit	[6] $20.00
40 percent [7] of total eligible (81,000) will use outpatient facilities and will average 6 visits a year—number of veterans	32,400
Formula—32,400 x $20 x 6 visits	3,888,000
Special Rehabilitation: S. 284 provides to all Vietnam and post-Korean drug addict veterans with general or honorable discharges and GI Bill entitlements the following:	
Professional counseling	
Education and vocational guidance	
Education and training	
Job referral and placement	
Work for pay through arrangement with private industry	
Intensive skilled services	
Transportation associated with rehabilitation:	
Estimated cost per veteran for all these services (does not include cost of initial and follow-up medical treatment)	[8] 3,000
Number who will use service:	
Vietnam era veterans	[9] 32,400
Post-Korean veterans	[10] 3,500
Total	35,900
Formula:	
35,900 at $3,000	[12] 107,700,000
7180 [11] at $700	5,026,000
Total cost	$112,726,000
An estimate for the first year cost for a counseling program to reach and help the drug addict veterans identified above, is as follows:	
Department of Medicine and Surgery requirements:	
92 ex-addict counselors (GS) at each VAH not now employing them	825,240
37 ex-addict counselors at DOD drug rehabilitation	331,890
Department of Veterans Benefits requirements 100 ex-addict counselors at U.S. Veterans Assistance Centers	897,000
Total cost: (229 FTE)	2,027,130
Grand total cost for drug addiction program	
Service-connected psychoses:	
Presumes that a psychosis developing within three years of discharge from service is to be service connected. This is an extension of 1 year, i.e., present law presumes 2 years from discharge from service.	
Specific data are not available which show the number of veterans having a service connected psychosis found to exist within 2 years of discharge from military service. The best estimate of the number of such eligible persons since World War II is 4,000 cases. The extension to three years should produce an additional one-third more or 1,300 cases.	
1,300 at $27 per day for 320 days a year	[13] 15,392,000

[1] Data obtained from Department of Defense.

[2] Estimated by VA drug and alcohol service.

[3] Estimated 6 percent of 2,500,000 alcoholic veterans.

[4] Estimated 16.7 percent of number of age 44 or less veterans discharged from VA hospitals for treatment for opium addiction during 6 months ending December 1971. This percentage applied to 60,000 Vietnam era veterans with drug addiction.

[5] The proportion (2.7 percent) of the Vietnam era veterans who are alcoholics to total Vietnam era veterans was applied to total Post-Korean veteran population.

[6] Based on present fee basis cost for service-connected outpatient treatment and administrative costs estimated to be 45 percent of total cost of outpatient care.

[7] Based on experience of veterans on compensation and pension rolls utilizing VA outpatient facilities from House Print No. 86, 92nd Congress.

[8] Estimate based upon information supplied by VA Mental and Behavioral Sciences Services and the National Institute of Mental Health, H.E.W., one year, one time.

[9] Same as number who will get outpatient care.

[10] Same proportion of eligible Vietnam era veterans who would use service.

[11] Estimated 20 percent would require additional rehabilitation beyond one year at $700 per person.

[12] Virtually the full rehabilitation cost for veterans in the Special Rehabilitation Program would be financed from GI bill of entitlements. Using an average GI bill entitlement of $220 per month, the 12-month yield would be $2640.

[13] The VA was unable to provide an estimate of the cost for the readjustment medical counseling provision. The committee believes that this $15.4 million for service-connected psychosis is probably considerably on the high side and would be sufficient to cover added costs under readjustment medical counseling (for example, $6,000,000 would provide for basic counseling, at $50/veteran, for 100,000 veterans plus more intensive additional counseling, at $100/veteran, for 10,000 of those veterans needing more intensive help). The committee believes that much can be accomplished in this area by the more effective utilization of the VA's psycho/social staff within DM & S, entailing only minimal additional expenditure.

SECTION-BY-SECTION ANALYSIS OF S. 284 AS REPORTED

Section 1. Establishes the short title of the act as the "Veterans Drug and Alcoholic Treatment and Rehabilitation Act of 1973."

Section 2. Subsection (a).—Amends section 601(1), which defines the term "disability" for purposes of chapter 17 (Hospital, Domiciliary and Medical Care) of title 38, to include alcoholism and drug dependence within the meaning of "disease".

Subsection (b).—Amends section 601, which sets forth definitions for purposes of chapter 17, by adding a new paragraph (2) to define the term "veteran" specifically for the purposes of the furnishing of hospital care and medical services under that chapter for a service-connected disability. For that specified purpose under the new definition, veterans with undesirable discharges (as long as the nature of such a discharge would not involve any of the conditions specified under the bars-to-benefits provision of present section 3103) would be made eligible for such care and services. Under the new definition it is possible that a very few veterans with bad conduct discharges not imposed by a court-martial proceeding would also be made eligible for such specified care and services. The new definition would not in any way alter the *in*eligibility of a veteran with a dishonorable discharge for such services under chapter 17. A veteran with such a discharge is presently ineligible for VA care even for a service-incurred disability.

Subsection (c).—Amends section 601(6) (as redesignated by subsection (b)), which defines "hospital care" for purposes of chapter 17, to include "rehabilitative services" (which is defined in a new paragraph (9) added to present section 601 by subsection (f)) within such definition.

Subsection (d).—Amends section 601(7) (as redesignated by subsection (b)), which defines "medical services for purposes of chapter 17, to include "rehabilitative services" within such definition.

Subsection (e).—Amends section 601(8) (as redesignated by subsection (b)), which defines "domiciliary care" for purposes of chapter 17, by rewriting such definition to include rehabilitative services within such definition and to make clear that such term includes "necessary medical services".

Subsection (f).—Amends section 601 by adding a new paragraph (9) defining "rehabilitative services", which is defined to include "such professional counseling, educational and vocational guidance, education, training, and job referral and placement services (including therapeutic work for remuneration through arrangements with private industry, and essential transportation associated therewith), and such other intensive skilled services applied, on an inpatient or outpatient basis, over such a protracted period as may be necessary to assist the patient to return, as soon (and as completely rehabilitated) as practicable, to his or her family and community as a productive, self-respecting, and self-sustaining member of society."

The reference to therapeutic work for remuneration through arrangements is intended to make clear the authority to engage in such activities as are and have been car-

ried out at VA facilities at Los Angeles, Palo Alto, and Menlo Park, Calif., and other stations, as to which programs the VA is currently conducting an extensive review to determine the need for more comprehensive statutory authority. In the interim, the VA has assured the Committee that no such therapeutic work arrangements will be discontinued or significantly reduced. The Committee looks forward to receiving a full report on the VA study as soon as it is completed.

Section 3.—Amends section 602, which establishes a presumption of service-connection for active psychoses developed within 2 years after discharge from the service, to establish such presumption in the case of *any* psychoses developed within 3 years of such discharge.

Section 4. Subsection (a).—Amends subchapter II of chapter 17 by adding a new section 612A (Eligibility for readjustment medical counseling).

New section 612A. Subsection (a).—Directs the Administrator (except in the case of veterans with discharges falling within the bars-to-benefits provision of present section 3103) to furnish, under chapter 17, readjustment medical counseling and appropriate follow-up care and treatment, to any such Vietnam era veteran (a veteran with service after August 5, 1964) who requests such counseling in order to assist in his readjustment to civilian life; and also directs the Administrator, in cooperation with the Secretary of Defense, to take all appropriate actions under the outreach services program, provided for in present section 241, to insure that all veterans eligible for such counseling are advised of such eligibility and encouraged to take full advantage of it.

Subsection (b) of section (4).—Amends the table of sections at the beginning of chapter 17 to reflect the addition of the new section 612A made by subsection (a) of section 4 of the bill as reported.

Section 5.—Amends subchapter III of chapter 17 by adding a new section 629 providing for a special program for the treatment and rehabiliation of veterans suffering from alcoholism.

New Section 629. Subsection (a).—States a Congressional finding and declaration of the seriousness of alcoholism and alcohol abuse in the Nation, including among the veteran population.

Subsection (b).—Directs the Administrator to carry out specialized medical programs providing inpatient and outpatient treatment and rehabilitative services (as defined in new paragraph (9) added to present section 601 by section 2(f) of the bill as reported) on a nationwide basis to veterans eligible for chapter 17 medical care who are suffering from alcoholism or alcohol abuse. The Administrator is further directed to stress the use in such program of recovered alcoholic counselors and half-way houses, encounter-style therapeutic communities and other treatment modalities—in a comprehensive program ranging from detoxification to recovery. Specific mention is made of treatment of the symptoms of detoxification because the Committee has received disturbing reports that some VA hospitals have refused to treat individuals in extreme withdrawal situations. Finally, the new subsection requires an annual report regarding the specialized programs carried out, in the same detail as required (in new section 659) for implementation of the new subchapter VI on drug dependence or abuse, added by section 7 of the reported bill.

Section 6.—Amends section 618, which authorizes certain therapeutic and rehabilitation activities, to direct the Administrator to take appropriate action to make it possible for patients receiving rehabilitative services in VA medical and domiciliary facilities (as defined in the amendments made to present Section 601 by Section (2)(c), (d), (e), and (f) of the bill as reported) to take maximum advantage of their GI bill entitlements under chapters 31, 34, and 35.

Section 7. Subsection (a).—Amends chapter 17 by adding a new subchapter VI (Special Medical Treatment and Rehabilitative Services for Drug Dependence or Drug Abuse Disabilities).

New Section 651.—Establishes a definition of the term "veteran" for purposes of this new special subchapter and thereby establishes eligibility for treatment and services under such subchapter for any person discharged from active military service, regardless of the nature of discharge (and regardless of the bars-to-benefits provisions of present section 3103) who has drug dependence or drug abuse disability (hereinafter referred to as the drug disabilities) without any need for a finding of service-connection in connection with such disability.

New section 652.—Sets forth the basic provisions governing the provison of treatment and rehabilitative services for veterans suffering from one of the drug disabilities.

Subsection (a).—Directs the Administrator to furnish any veteran suffering from one of the drug disabilities with such special medical treatment and rehabilitative services or hospital and domiciliary care as he finds reasonably necessary to effect the veteran's recovery and rehabilitation.

Subsection (b).—Specifies that treatment and rehabilitative services under the new subchapter shall include "medical examination, diagnosis, and classification of disability, all appropriate short-term services for the acute effects of the disability, drug withdrawal treatment, group therapy, individual counseling (including appropriate referrals for legal assistance), educational and vocational guidance, and crises intervention. . . ." It also specifies that such treatment and services shall be made available in VA directly administered hospitals, domiciliary facilities, and outpatient clinics as well as halfway houses and other community-based facilities, and in non-VA public or private facilities under contract with the Administrator.

Subsection (c).—Directs the Administrator to offer alternative modalities of treatment to each such veteran receiving treatment and rehabilitative services under the new subchapter (whether in VA or contract facilities) and specifies that the alternatives offered shall be based upon the individual needs of each such veteran.

Subsection (d).—Directs the Administrator to contract for treatment and services under the new subchapter to give the greatest feasible priority to community-based, multiple-modality programs employing peer group counselors and specifically Vietnam-era veterans (as defined in present section 101(1) and to include in such contractual arrangements the carrying out of maximum outreach efforts to identify and counsel veterans eligible under the new subchapter.

Subsection (e).—Directs the Administrator upon receiving an application for treatment and services under the new subchapter from a veteran with an other than honorable or general discharge to (1) advise him of his right to apply to the appropriate military service to obtain a review of the nature of his discharge with a view toward removing any bar to eligibility for the receipt of veterans benefits under title 38; (2) advise him of the current military policy regarding a review of discharges received in connection with drug abuse offenses; and (3) advise him of all programs under title 38 and any other law to which he is or would be entitled if he had a general or honorable discharge. The subsection also directs the Administrator to offer, and, if requested, to provide any veteran within the provisions of the new subsection all appropriate assistance needed to facilitate the process of preparing and filing with the military an application for a review of the nature of his discharge.

Subsection (f). Paragraph (1).—Sets forth a special entitlement to treatment and services for any Vietnam era veteran (eligible for treatment and rehabilitative services under the new subchapter) under conditions specified in paragraph (2) of the subsection.

Paragraph (2).—Provides that in the case of a Vietnam era veteran with a drug disability (1) if he requests but is not promptly provided treatment and services in a VA-directly administered program, or (2) if there is no such VA facility or program readily accessible to the veteran and he requests treatment in a non-VA facility or program approved by the Administrator (as providing treatment and services consistent with all the provisions of the new subchapter), then in either case such a veteran is entitled to the Administrator paying to such non-VA program or facility the reasonable value of the treatment and services provided consistent with all the provisions of this subchapter (including such rehabilitation as may be provided under the Special Rehabilitation Program established by new section 654), when the non-VA facility is approved by the Administrator as providing treatment and services consistent with all the provisions of this subchapter in accordance with standards established in regulations which he prescribes, with the concurrence of the Director of the Special Action Office for Drug Abuse Prevention.

Paragraph (3).—Provides that payments for treatment and services provided in non-VA facilities under paragraph (2) shall be made from funds appropriated for medical care of veterans and, where the veteran is eligible for the Special Rehabilitation Program established by new section 654, from GI Bill monies over which the Director has acquired control through an agreement under new section 654.

Subsection (g). Paragraph (1).—Directs the Administrator to provide (either in VA-directly administered facilities or programs or those under contract with him) for treatment and services in the case of certain veterans eligible under the new subchapter who are involved in criminal proceedings as follows: (1) for a veteran under criminal charge or conviction who is not confined and who is not required to participate in a treatment and rehabilitation program by any court of competent jurisdiction; (2) to the maximum feasible extent, furnish necessary drugs and medicines for any veteran incarcerated in a local jail who was receiving treatment and services under the new subchapter immediately prior to incarceration when prescribed by the attending physician with adequate safeguards against abuses; and (3) continue furnishing such drugs and medicines to a veteran under the conditions set forth in (2) above until the Administrator determines that responsibility for appropriate treatment will be assumed by a non-VA facility or program.

Paragraph (2).—Authorizes the Administrator to provide (either in VA-directly administered facilities or programs or those under contract with him) for treatment and services to any veteran under the new subchapter who has been criminally charged or convicted and who is required to participate in a treatment and rehabilitation program by a court of competent jurisdiction, but only under such conditions as the Administrator determines, in a case-by-case basis, will insure that the veteran's participation on the particular program will not impair the voluntary nature of the services provided other patients in such program.

New Section 653. Subsection (a).—Directs the Administrator to utilize all VA resources to seek out and counsel toward treatment and rehabilitation all veterans eligible under the new subchapter, especially those of the Vietnam era.

Subsection (b).—Directs the Administrator, to the maximum extent feasible, to contract for the services of or employ peer group

veterans and authorize such employment or contracts without regard to United States Code title 5 provisions regarding appointments in the competitive service at pay rates without regard to the title 5 clarification procedures and General Schedule pay rate, and to provide such veterans with all necessary job training.

Subsection (c).—Directs the Administrator to carry out, in consultation with the Secretary of Labor and the chairman of the Civil Service Commission, an affirmative action program under which all Federal agencies, private and public firms and persons would be urged to provide maximum employment opportunities for veterans provided treatment and rehabilitative services under the new subchapter who are determined to be sufficiently rehabilitated to hold gainful employment and, in coordination with the Secretary of Labor, to attempt to place such veterans in such employment opportunities.

New section 654.—Establishes a Special Rehabilitation Program of education and training for veterans eligible under the new subchapter who are also eligible for educational assistance under chapter 31, 34, or 35 of title 38, to the extent of such veterans' such entitlements.

Subsection (a).—Directs the Administrator, pursuant to regulations he shall prescribe and in accordance with all the provisions and limitations in the new subchapter, to provide for all post-Korean conflict (those with service after January 31, 1955) veterans eligible under the new subchapter and whose discharges are under other than dishonorable conditions who have successfully undergone treatment and who have GI bill entitlement, a special program of rehabilitative services patterned after education and training programs for vocational rehabilitation under present chapter 31. The subsection provides that such a veteran must enter into an agreement with the Administrator containing specified conditions as a precondition to receiving treatment under the new subchapter, providing the following:

(1) entitles the Administrator to direct disposition of the veteran's GI Bill entitlement based on the veteran's total period of participation in the Special Program;

(2) provides that for each month of the veteran's participation in the Special Program, his GI Bill benefit entitlement will be reduced proportionately; and

(3) directs the Administrator to pay to such veteran an allowance not less than 60 percent, nor more than 100 percent, of the current subsistence allowance provided under chapter 31 of title 38 (presently $170) from the GI Bill monies of such veteran over which the Administrator has acquired direction.

Subsection (b). Paragraph (1).—Limits a veteran's total period of participation (both before and after recovery) under the Special Rehabilitation Program established by the new section 654 to a total of 24 months except in extraordinary cases where the Administrator, in accordance with regulations he shall prescribe, approves an additional period and payment of such additional subsistence allowance as he determines necessary for a veteran to continue reasonable progress toward his rehabilitation goal.

Paragraph (2).—Provides a cut-off of eligibility under the Special Rehabilitation Program established by the new section 654 of eight years after a veteran's discharge or the date of enactment, whichever is later.

New Section 655. Subsection (a).—Establishes the right of the Comptroller General of the United States, for the purposes of audit, to assess all books, records, documents, things or property of non-VA facilities carrying out treatment or rehabilitation programs under the new subchapter.

Subsection (b).—Directs the Comptroller General to carry out his audit responsibilities so as to comply with the provisions respecting medical confidentiality set forth in new section 658.

New section 656.—Requires a line item in the President's annual budget submission showing the estimated VA expenditures under the new subchapter.

New section 657.—Establishes procedures and requirements regarding the transfer, and treatment therein, of active-duty servicemen to VA medical facilities in connection with a drug disability.

Subsection (a).—Provides for the transfer of an active-duty serviceman with a drug disability to a VA medical facility for treatment pursuant to mutually agreed upon terms between the Secretary of the military Department concerned and the Administrator and subject to reimbursement by such Service. Such transfers are authorized only within the last 90 days of a tour of duty. After such a transfer, a serviceman would receive treatment and rehabilitative services on the same terms and conditions as prescribed for a veteran in the new subchapter.

Subsection (b).—Requires the Administrator to report periodically to the Secretary concerned regarding the progress of the treatment of each serviceman transferred and to release such serviceman back to the Secretary concerned when the Administrator finds that the disability is stabilized or certifies that the member is refusing to comply with reasonable terms and conditions of treatment or that treatment would otherwise no longer be beneficial to such serviceman.

Subsection (c).—Prohibits transfers under new section 657 unless the serviceman in question specifically requests transfer for a specified period of time within his remaining tour of duty and does so in writing and further prohibits the extension of such treatment beyond such specified period of time unless the serviceman specifically requests a specified extension and such request is approved by the Secretary and the Administrator.

New section 658.—Establishes very specific and generally protective requirements with respect to the maintenance of confidentiality regarding treatment and rehabilitation under the new subchapter.

Subsection (a).—Establishes the principle that, notwithstanding any other law, all records made or information divulged in connection with treatment and rehabilitation under the new subchapter shall be kept confidential by the Administrator and that the record, information, or fact of treatment may be disclosed only for the limited purposes and under the circumstances expressly authorized in new section 658.

Subsection (b).—Permits disclosure under the following circumstances: (1) if the veteran voluntarily requests in writing a waiver (*a*) to medical personnel for diagnosis and treatment, (*b*) to his attorney, or (*c*) to Government personnel or a named person or organization (for example, a veterans' organization) (i) in connection with the veteran patient or his successors obtaining benefits or (ii) when the Director of a facility responsible for treatment and rehabilitation determines that disclosure would be clearly beneficial to the veteran; (2) when the veteran is determined, by competent medical authority, to be a clear and present danger to himself or others and disclosures is necessary to alleviate such danger; or (3) when the Administrator determines that disclosure is necessary for the survivor of a deceased veteran to obtain benefits through legal action. The extent of disclosure is specifically limited by the exact factual context and will be only as complete as absolutely necessary to carry out the specified purpose for which the information is disclosed.

Subsection (c).—Permits disclosure for other purposes if authorized by an appropriate court order under a good cause procedure and establishes the criteria for weighing the factors for and against such disclosure. When granting disclosure under this subsection, a court is directed to impose appropriate safeguards against the unauthorized use or disclosure of material covered by the court order.

Subsection (d).—Imposes upon the Administrator the responsibility to insure that any record, information, or fact of treatment under the new subchapter shall not be disclosed in any manner or for any purpose or with any effect adverse to the interests of the veterans by either the VA or any person, program, or organization carrying out VA responsibilities, unless such disclosure is specifically authorized under subsection (b) or (c) of the new section 658.

Subsection (e).—Authorizes the release of purely statistical data compiled without reference to name or other identifying (either directly or indirectly) characteristics.

Subsection (f).—Continues in effect the procedures of new section 658 with respect to any former patient under the new subchapter regardless of his present patient status.

Subsection (g).—Establishes civil fines for unauthorized disclosures identical to those provided for in P.L. 92–255.

New section 659.—Requires the Administrator to submit to the Congress six months after enactment and thereafter on each September 1 a report on the implementation of the new subchapter and new section 629 (regarding alcoholism treatment and rehabilitation) added by section 5 of the bill as reported, broken down separately with respect to alcoholism and drug abuse disabilities, and an evaluation of the effective alternate treatment and rehabilitation modalities provided under the new subchapter and under new section 629. The report will also include (1) numbers of patients treated, (2) average duration of treatment, (3) estimates of successful rehabilitation and recovery, (4) an analysis of rehabilitation experience, (5) a full accounting of receipts and disbursements based upon dispositions of GI Bill entitlements under new section 654 in the new subchapter, (6) a description of outreach and employment efforts, (7) a full accounting of payments to non-VA facilities and an evaluation of services provided therein, (8) experience under the medical confidentiality provisions, (9) new program plans, and (10) any legislative recommendations.

Subsection (b) of section 7.—Amends the table of sections at the beginning of chapter 17 of title 38 to reflect the addition of the new subchapter added by subsection (a) of section 7.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes by presence or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report favorably to the Senate S. 284 as reported from subcommittee:

Yeas—9

Vance Hartke	Clifford P. Hansen
Herman E. Talmadge	Strom Thurmond
Jennings Randolph	Robert T. Stafford
Harold E. Hughes	James A. McClure
Alan Cranston	

Nays—0

Mr. CRANSTON. Mr. President, there is an error in the printing of the committee report to which I wish to draw attention regarding the cost estimate on page 43. That table is set forth correctly in the version I have just inserted into the RECORD so that the reference to "thousands of dollars" is removed and the amounts for the last two items appear in millions.

Mr. President, this highly innovative measure would entail the expenditure of $144 million in its first year, decreasing to $35 million in its fifth year of implementation. The 5-year cost would be approximately $290 million. Estimates from the administration, veterans or-

ganizations, and others active in the drug treatment field place the number of veterans suffering from drug addiction at anywhere from 60,000 to 400,000. To deal with this very real and extensive problem, S. 284 would:

First, mandate a broad-range program for treating and providing the most comprehensive rehabilitation to addicted veterans, including the following aspects:

Give the VA authority to treat some 18,000 addicted veterans, who received less than honorable or general discharges, because of drug use, and treat other addicted veterans with disqualifying discharges;

Allow treatment of veterans even though their habits may not have been acquired while in the service;

Require contracting for care in community facilities for the treatment and rehabilitation of Vietnam-era addict veterans when VA services are not readily available;

Provide for extensive rehabilitation of those treated, using their GI bill entitlements to pay for education, training, and counseling and a small subsistence allowance for them;

Set up VA machinery to seek out and counsel addicted veterans with disqualifying discharges and help them obtain review and upgrading of their discharges by the military;

Establish VA programs to assist recovered addicts in finding productive employment; and,

Guarantee that their medical records remain confidential.

Second, S. 284 would restore medical benefits for service-connected conditions to certain disabled veterans who were given undesirable discharges, because of drug use or other reasons. However, veterans with dishonorable or bad conduct discharges would still not be eligible for such general VA medical care.

Third, the bill would require that individual medical readjustment counseling be readily available at all VA facilities to all eligible Vietnam-era veterans who want it to assist them with their readjustment to civilian life.

I believe that all Senators will agree that this is the kind of program that both addicted veterans and the Nation need very badly to deal with this major problem in a truly effective, comprehensive, and enlightened manner.

Veterans need this bill. The Nation needs this bill. I will rest my case on that.

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

Mr. CRANSTON. I yield.

Mr. JAVITS. I ran across this problem in New York, where we had more than 20,000 veterans needing treatment. I took it up with the VA, had extended conferences about it, and the only thing they asked for was this legislation. I congratulate the Senator and his colleagues on bringing it forth.

Mr. CRANSTON. I thank the Senator. I trust that we will give them this legislation very soon.

Mr. HARTKE. Mr. President, today, I rise to urge passage of S. 284 which would require the availability of comprehensive treatment and rehabilitative services and programs for veterans who suffer from drug dependence or abuse. This measure is similar to S. 2108 which was reported from the Veterans' Affairs Committee last fall and which unanimously passed the Senate on September 7, 1972, as an amendment to H.R. 9265. The version before you today represents tentative agreements reached in House-Senate staff negotiations last fall. Congress adjourned before the revised version could be considered by the members of the House Committee on Veterans' Affairs.

Members of the Senate will recall that this legislation was prompted by the skyrocketing incidence of drug abuse among veterans of the Vietnam war. The rate of drug abuse discharges from the armed services grew, for example, from approximately 12 per month in fiscal 1967 to more than 700 per month during the first 6 months of fiscal 1972. There are undoubtedly many other drug abusers who escaped detection while in service. It is estimated, for example, that there is a minimum of 60,000, and more likely 100,000 veteran addicts in the United States. Or, put another way, authorities estimate that 1 out of every 4 addicts in the United States is a veteran. It would be well to emphasize here, of course, that the vast majority of the men who served in the Armed Forces in recent years did not suffer from problems of drug abuse. For those who do suffer from addiction to heroin, however, the price that is paid by the individual veteran as well as the country as a whole is enormous. As such we have a strong obligation, not only to the veteran, but to society to help the veteran addict become a self-sustaining productive member of this country.

In response to the growing problem of drug abuse, the Veterans' Administration at the prodding of Congress has substantially upgraded its drug treatment programs and facilities. Figures supplied by the VA indicate that more than 20,000 drug abusing veterans have already been treated. Much of this effort, however, is confined to detoxification and methadone maintenance without any effective rehabilitation. It is clear that not only must the capability for treatment of veterans be increased, but that there also be effective treatment and rehabilitation alternatives available to the veteran other than just methadone with its attendant life of addiction to another drug.

The President, Congress, the Veterans' Administration, and the major veterans' organizations all agree that new legislation is called for permitting the Veterans' Administration to more adequately meet the drug crisis. I believe the Veterans' Drug and Alcohol Treatment and Rehabilitation Act of 1973 meets this need. This bill which is authored by the distinguished chairman of the Subcommittee on Health and Hospitals, Mr. CRANSTON, and which was unanimously ordered reported from the full Committee on Veterans' Affairs which I am privileged to chair, provides a comprehensive treatment and rehabilitation program for veterans suffering from drug addiction.

The bill as reported would establish a special medical treatment and rehabilitative service program for veterans with a drug dependence or drug abuse disability. Inhospital and outpatient care contracts with approved community programs for treatment and rehabilitation as well as outreach efforts are included. The reported bill stresses the need to offer veteran addicts alternative treatment modalities based on individual readjustment needs. The committee believes quite strongly that veterans who have not been addicted to heroin for a long period of time should not be automatically placed in a methadone maintenance program which is more suited for the long-term "street junkie." The committee is quite disturbed that 70 percent of veteran addicts in VA outpatient care are on methadone maintenance programs. Under this bill veteran addicts will have a choice of the treatment modality and much stress is placed upon providing highly individualized community based multimodality inhouse contract services including a wide range of vocational and educational counseling and rehabilitative services in job placement systems for veterans. In addition to medical treatment a special rehabilitation program is established which makes use of GI bill educational benefits to which the veteran would otherwise be entitled.

In addition, the committee continues to believe that the Veterans' Administration should and must play a much larger role in the national fight against alcoholism. New section 629 in the reported bill is designed to enable the Veterans' Administration to utilize its enormous resources in combating alcoholism. The committee believes that at a minimum $75 million should be committed to this fight over the next 5 years.

In total the bill commits an initial $144 million to combat drug and alcohol abuse for the first year. Thereafter funding for the following 4 years will be at a level of approximately $35 million.

Mr. President, the organizations which represent this country's 29 million veterans have been unanimous in their support of S. 284. The national director of Legislation for the Disabled American Veterans testified that—

> Returning veterans who have had the great misfortune to become addicted to drugs should be treated as patients and as sick people, and as individuals who are in need of medical care, rather than being punished.

He went on to say that coming to grips with the drug problem will require that—

> Several million dollars in addition to that already requested must be appropriated; and in the expenditure of these funds, we should contemplate the use of new and unusual techniques for a government agency.

The VFW testified almost 2 year ago that—

> Action is needed now before it is too late; too late that is, not only for the narcotics addict, but perhaps thousands of innocent people whose health, liberty, and safety will be violated by a great many of this group as they seek to satisfy their insatiable appetites for narcotics.

Yesterday the commander in chief of the VFW, in his appearance before the Committee on Veterans' Affairs, reaffirmed his support and stated that—

> We are hopeful S. 284 will receive quick approval by the 93rd Congress.

This morning, I received a telegram from the American Legion urging passage

of S. 284 which I ask unanimous consent be printed in the RECORD at this point.

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

MARCH 5, 1973.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans' Affairs, Old Senate Office Building, Washington, D.C.

S. 284, the Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1973, favorably reported by your committee, is overdue legislation.

The Legion recognizes that drug abuse in the Armed Forces is one part of this national problem. S. 284 would provide a comprehensive VA program of treatment and rehabilitation services for certain active service personnel and to former members of the Armed Forces who because of the nature of their discharge would not otherwise be eligible. It is the Legion's understanding that any special program of rehabilitation or readjustment extending beyond the individual's medical treatment for such drug addiction would be predicated on his eligibility to benefits under Chapters 31, 34 or 35 of Title 38, U.S.C. In view of this we support the provisions of S. 284.

HERALD E. STRINGER,
Director, National Legislative Commission, The American Legion.

Mr. HARTKE. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point a telegram received from the National Association of College Veterans which represents some 300,000 Vietnam-era veterans.

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

MARCH 6, 1973.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans' Affairs, Washington, D.C.

DEAR SENATOR: We are deeply distressed over the lack of comprehensive legislation dealing with the needs of our veterans who are afflicted with problems related to drug abuse. A considerable amount of time and energy has gone into the development of S. 284, the Veterans' Drug and Alcohol Treatment and Rehabilitation Act of 1973. Lengthy hearings were held in the previous Congress. We now think it is time to act, and to begin to deal with the readjustment of those fellow veterans who suffer so much on account of the lack of proper treatment and rehabilitation in these areas.

Your prompt action is deeply appreciated.

JIM MAYER,
President, National Association of Collegiate Veterans.

Mr. HARTKE. Mr. President, in quite simple terms this is the problem with which we are faced: Young men thrown into a hostile environment thousands of miles from home where heroin and other dangerous drugs were readily available and cheap tragically have become addicted and brought this addiction home with them. We owe an obligation to these men to help free them from their addiction so that they may become productive members of society. The bill which we will vote on today is an important step in fulfillment of that national debt. More than that, we as a nation cannot afford to lose the talent, the energy, and the hope of 100,000 drug-addicted veterans. As such, it is a crucial investment in the future of our great country. Mr. President, I urge that the Senate pass the Veterans' Drug and Alcohol Treatment and Rehabilitation Act of 1973.

Mr. HANSEN. Mr. President, S. 284 is a drug addiction and dependency bill that has received many hours of consideration by the committee. This bill, we feel, falls in line with the President's program of providing treatment to all persons who request treatment for their drug problems.

S. 284 will permit the Veterans' Administration to provide treatment to those veterans who received less than an honorable discharge. In many instances the veteran who received less than an honorable discharge received it, because of a drug problem attained while serving in Southeast Asia. Therefore, in many instances, we should do our level best to provide care that he may return to society as near equal as possible to his status prior to entrance into the Armed Forces.

Here, again, it is hoped that my colleagues will support this measure.

Mr. HUGHES. Mr. President, I rise to voice my support for the passage of S. 284, the Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1973, and to commend my fellow members of the Committee on Veterans' Affairs, particularly Senator CRANSTON, for bringing this bill to the floor of the Senate.

Senator CRANSTON was among the first to perceive the problem, now full-blown, that this legislation is designed to alleviate. Long before the Nation or the administration woke up to the fact that tens of thousands of young men were coming back from Vietnam addicted to heroin and being released into civilian life for the most part unrehabilitated, Senator CRANSTON was alerting the country to the impending epidemic and mobilizing support within the Congress for measures to deal with it. He did so first from his position as chairman of the Veterans Subcommittee of the Committee on Labor and Public Welfare and then as chairman of the Health and Hospitals Subcommittee of the Committee on Veterans' Affairs after this committee was created 2 years ago.

As chairman of two Senate subcommittees concerned with drug abuse, including alcoholism, in the civilian and military sectors of our society, and as a member of Senator CRANSTON'S Health and Hospitals Subcommittee, I know of the long hours and hard work he has given unselfishly to the job of finding a solution to this problem among veterans. I am equally aware of the magnitude of the problem and of the obstacles that prevent the drug-addict or drug-abusing veteran from getting the kind of treatment he needs.

Recently, the Christian Science Monitor estimated that out of the some 600,000 heroin users in the United States about 100,000 may be veterans. It also found after a survey that from 70 to 80 percent of those the Monitor described as heroin-addicted veterans are not being reached by the Veterans' Administration's programs. A part of the problem seems to be, according to the paper, that while the VA expects to be able to handle 20,000 heroin-using veterans and 10,000 more with other drug problems by mid-1973, many veterans with drug problems are underutilizing the VA facilities that already exist. The reason apparently is that many Vietnam-era veterans regard the VA drug treatment program as an extension of the military, as an environment that may be comfortable for the older veteran with more acceptable disabilities than narcotics addiction, but not for the younger man with a drug problem. As a result, many veterans with drug problems have sought help from non-VA programs, and to a great extent they account for the long waiting lists that some of these programs have been beset with.

This reluctance on the part of veterans to enter VA drug treatment programs came to light at hearings of the Health and Hospitals Subcommittee which Senator CRANSTON and I cochaired in June of 1971. One obstacle we found that was keeping veterans from treatment involved location: Veterans living long distances from the VA's drug treatment centers would have been hard pressed to avail themselves of outpatient treatment and to try to hold down a job back home at the same time. And getting and holding a job is important to an individual's rehabilitation from drug or alcohol abuse—almost as important, perhaps, as the direct treatment he receives.

Several provisions of the bill before us today are designed not only to enlarge the VA's treatment resources but to make those resources more attractive to the veteran. For example, the bill gives the VA contracting authority which can bring treatment right into the veteran's neighborhood in the form even of storefront centers more suited to his surroundings and his life style. Other provisions would make available a wide array of resources necessary to his rehabilitation, including training, vocational rehabilitation, and educational opportunities. As I have said, getting and keeping a job is sometimes as important to the recovery of a drug or alcohol addict as the treatment he may receive in a clinic or a halfway house, and S. 284 is significant in that it recognizes this.

The bill also broadens the eligibility base for veterans with nonalcoholic drug problems by making treatment available regardless of the type of discharge they received. It does not remove the stigma of an undesirable, bad conduct or dishonorable discharge, but it does open VA's doors to this group of veterans.

Unfortunately, the bill does not extend the same eligibility for treatment to that group of veterans with less-than-honorable discharges who happened to fall victim to alcoholism. In my opinion, they carry the heaviest burdens of all. Much of the time of my staff is spent threading through the bureaucratic maze on behalf of veterans, many of them older men, who became alcoholics in service and in most cases were released into civilian society with the kinds of discharges that bar them from treatment by the VA.

Surveys in our possession show the tremendous cost that society has borne and continues to bear by allowing these people to drift from one civilian detoxification ward to another, from one ill-paying job to another, from one jail to another, until through some quirk of fate or mercy they get the help they need or they simply wear out and die. I want to emphasize on the other hand, that the

armed forces are beginning to recognize the high incidence of alcoholism among their members, and I commend them for the efforts they are making to head off the problem of alcoholism within the ranks by providing treatment instead of taking the traditional easy way out of simply exporting the victims of this disease back to civilian society.

Thus, I was very reluctant to agree to S. 284 so long as it denied eligibility for treatment to alcoholic veterans who received less-than-honorable discharges while making it available to those in this category who suffer from nonalcohol drug problems. But I am mindful of the resistance on the part of the House to closing this gap in the bill, and I recognize that S. 284 even with this omission will go a long way toward relieving the problem of drug abuse among our veterans. As noted in the report accompanying S. 284, the Committee on Veterans' Affairs plans a major investigation of the VA alcohol program during this Congress. I hope that this study will encompass the omission I have cited, and if so I am confident that a finding will be made that this prohibition should be lifted.

With this reservation, Mr. President, I urge passage of S. 284. The buck has been passed long enough. It has to stop somewhere, and I suggest that we stop it here.

Mr. SCHWEIKER. Mr. President, a recent study released by Ralph Nader's Center for the Study of Responsive Law points up a critical problem facing many veterans: Only those veterans with honorable discharges may obtain medical treatment from VA facilities. This provision effectively excludes treatment for the people needing it most—veterans with drug dependency problems whose type of discharge precludes their treatment.

Senator CRANSTON'S bill, S. 284, is a means of remedying this problem. It incorporates a provision of my bill (S. 519) that does this by providing medical treatment for veterans with a service-connected disability with other than a dishonorable discharge. Thus, those veterans discharged because of their drug dependency may, if this bill is enacted into law, seek rehabilitative treatment from the VA.

As I stated when I introduced S. 519, the Veterans Drug and Alcohol Abuse Rehabilitation Act, this is a voluntary program for veterans. We are opening the resources of the veterans program to those individuals who seek help in eliminating drugs and the need for them from their lives. I feel that the serious problems of drug abuse must be handled at all levels of society. There must be cooperation between Federal, State, and local governments; there must be coordination between public and private groups; and there must be continuity between military and civilian education and rehabilitation efforts. The vast resources of the Veterans' Administration are available and should be made accessible to the veterans needing them most.

Mr. STAFFORD. Mr. President, S. 284, the Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1973, is a bill that truly recognizes a need of our most recent veterans.

This bill creates the comprehensive treatment and rehabilitation services and programs for those disabled veterans suffering from alcoholism and drug dependence or their related problems. It is a giant step forward and has my support. This bill is similar to the bill that passed the Senate last year which I cosponsored.

The need for this bill is still paramount and I strongly support this bill and urge my fellow Senators to join me.

Mr. RANDOLPH. Mr. President, I express my earnest support for the Veterans Drug and Alcohol Treatment and Rehabilitative Act of 1973, which I cosponsor.

For years, the Congress and the Nation have been sympathetic to our service-disabled veterans—those who are disabled by loss of limb, loss of sight or hearing, or paralysis. We have provided medical care and treatment and monetary compensation for them and their dependents. It is time that we recognize that alcohol or drug dependence or abuse are in many cases equally if not more disabling. The Vietnam era veteran suffering from alcoholism is no less disabled than the World War II veteran who contracted malaria in the Pacific; he has a medical disease—a medical disability—and as a veteran he is entitled to treatment and rehabilitation. S. 284 would provide the care he needs.

This legislation recognizes that treatment is the first of two steps which must be provided for the victims of drug and alcohol dependency and abuse; the second phase is rehabilitation. These veterans in so many instances have faced social castigation and have found the door to job opportunity closed—roadblocks not often encountered by the veteran in a wheelchair or on crutches or with an artificial limb. These obstacles must be overcome and this bill can help accomplish this goal.

Another important provision in S. 284 is the treatment of these diseases, determined to be service connected, without the unfair and unjust stigma of a dishonorable discharge. We have been painfully slow in admitting that alcohol and drug dependency and abuse are diseases. Their victims are entitled to treatment—not punishment—for their afflictions.

Mr. President, I urge the Senate to adopt this vital measure.

Mr. HANSEN. Mr. President, these three bills which we have discussed and voted on today have done much toward improvement of the treatment and benefits we owe our Nation's veterans. I want to thank all members of the committee for their wonderful cooperation in behalf of these bills. The staffs of Senators and the staff of the committee have worked long and hard to prepare these bills which we feel would be satisfactory, and we expect such concerted efforts to continue in the future with all bills which come before the Veterans' Affairs Committee.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

Mr. HANSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Carolina (Mr. ERVIN), the Senator from Michigan (Mr. HART), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

The Senator from Michigan (Mr. GRIFFIN) is detained on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 87, nays 2, as follows:

[No. 34 Leg.]

YEAS—87

Aiken	Fulbright	Mondale
Allen	Goldwater	Montoya
Baker	Gravel	Moss
Bartlett	Gurney	Muskie
Beall	Hansen	Nelson
Bentsen	Hartke	Nunn
Bible	Haskell	Pastore
Biden	Hatfield	Pearson
Brock	Hathaway	Pell
Brooke	Helms	Percy
Buckley	Hollings	Proxmire
Burdick	Hruska	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
	Hughes	Roth
Byrd, Robert C.	Humphrey	Saxbe
Cannon	Inouye	Schweiker
Case	Jackson	Scott, Pa.
Chiles	Javits	Scott, Va.
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cook	Long	Stevens
Cotton	Magnuson	Stevenson
Cranston	Mansfield	Symington
Curtis	Mathias	Taft
Dole	McClellan	Talmadge
Domenici	McClure	Tower
Dominick	McGee	Weicker
Eagleton	McGovern	Young
Eastland	McIntyre	
Fong	Metcalf	

NAYS—2

Bellmon	Bennett

NOT VOTING—11

Abourezk	Griffin	Thurmond
Bayh	Hart	Tunney
Ervin	Packwood	Williams
Fannin	Stennis	

So the bill (S. 284) was passed.

(NOTE.—The text of S. 284 is identical to the text as printed earlier in the RECORD at the point where the Senate proceeded to consider S. 284.)

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be permitted to make technical changes in the engrossment of S. 284.

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

INDIAN CLAIMS COMMISSION APPROPRIATIONS, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 59, S. 721; that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill, as follows:

A bill (S. 721) to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment in line 5, after the word "fiscal", strike out "years 1974, 1975, 1976, and 1977 such sums as may be necessary to complete the program of the Indian Claims Commission" and insert "year 1974, a sum not to exceed $1,200,000 for the necessary expenses of the Commission"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act (25 U.S.C. section 70), during fiscal year 1974, a sum not to exceed $1,200,000 for the necessary expenses of the Commission.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. 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.

TREASURY MARKET FINANCING

Mr. HARRY F. BYRD, JR. Mr. President, for the past few years I have obtained figures on Treasury market financing from mid-October to mid-February. I began this in 1968 and 1969, and I felt that I noted, as a result of the Treasury borrowing, a trend toward higher interest rates during that earlier period. That proved to be the case.

I received today new figures for mid-October of 1972 through mid-February of 1973. We find again very heavy borrowing by the Federal Government. The total during this period was $21 billion.

The significant figure is that $17 billion of this was for cash, while the exchange was only $4 billion. That is a reversal from previous years, and not a desirable one as I see it.

The amount of Treasury financing for cash of $17 billion compares with $13.7 billion for the year before, $9 billion the year before that, approximately $9 billion the year before that, and $7 billion the year before that.

Mr. President, I ask unanimous consent that these figures be published at this point in the RECORD.

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

TREASURY MARKET FINANCING MID-OCTOBER 1972 TO MID-FEBRUARY 1973

[Excludes the rollover of regular weekly and monthly bills]

Issue date	Description	Length Years	Length Months	Amount issued (millions) For cash	In exchange	Total
1972						
Oct. 19	6-percent note	1	11½	$2,060		$2,060
Oct. 31	Annual bill	1		600		600
Nov. 2	13-week bill		3	100		100
Do	26-week bill		6	100		100
Nov. 9	13-week bill		3	100		100
Do	26-week bill		6	100		100
Nov. 15	6¼-percent note	4		3,036		3,036
Nov. 16	13-week bill		3	100		100
Do	26-week bill		6	100		100
Nov. 24	13-week bill		3	100		100
Do	26-week bill		6	100		100
Do	Tax anticipation bill		5	2,012		2,012
Nov. 30	13-week bill		3	100		100
Do	26-week bill		6	100		100
Do	Annual bill	1		100		100
Dec. 5	Tax anticipation bill		6½	2,510		2,510
Dec. 7	26-week bill		6	100		100
Dec. 14	13-week bill		3	100		100
Do	26-week bill		6	100		100
Dec. 21	13-week bill		3	100		100
Do	26-week bill		6	100		100
Dec. 28	13-week bill		3	$100		$100
Do	26-week bill		6	100		100
Do	5⅞-percent note	2		2,102		2,102
Dec. 31	Annual bill	1		100		100
1973						
Jan. 4	13-week bill		3	100		100
Do	26-week bill		6	100		100
Jan. 10	6¾-percent bond	20		627		627
Jan. 11	13-week bill		3	100		100
Do	26-week bill		6	100		100
Jan. 18	13-week bill		3	100		100
Do	26-week bill		6	100		100
Jan. 25	13-week bill		3	100		100
Do	26-week bill		6	100		100
Jan. 31	Annual bill	1		100		100
Feb. 15	6⅝-percent note	6	9	1,600		1,600
Do	6½-percent note	3	6		$3,890	3,890
	Total			17,347	3,890	21,237
	Recap:					
	Short-term bills			3,400		3,400
	Notes and bonds			13,947	3,890	17,837

Source: Office of the Secretary of the Treasury, Office of Debt Analysis.

TREASURY MARKET FINANCING MID-OCTOBER 1971 TO MID-FEBRUARY 1972

[Excludes the rollover of regular weekly and monthly bills]

Issue date	Description	Length Years	Length Months	Amount issued (millions) For cash	In exchange	Total
1971						
Oct. 21	26-week bill		6	$200		$200
Oct. 22	5¾-percent note	3	4	2,045		2,045
Oct. 28	26-week bill		6	200		200
Nov. 4	do		6	200		200
Nov. 11	do		6	200		200
Nov. 15	4⅞-percent note	1	3	2,768	$1,500	4,268
Do	6-percent note	7			8,207	8,207
Do	6⅛-percent bone	15		24	1,192	1,216
Nov. 18	26-week bill		6	200		200
Nov. 26	do		6	200		200
Dec. 1	Tax anticipation bill		4⅔	2,506		2,506
Dec. 2	26-week bill		6	200		200
Dec. 9	do		6	200		200
Dec. 13	Tax anticipation bill		6⅓	2,010		2,010
Dec. 16	26-week bill		6	200		200
Dec. 29	Tax anticipation bill		3⅔	1,526		1,526
Do	do		5⅔	1,016		1,016
1972						
Feb. 15	5¾-percent note	4	3		2,802	2,802
Do	6⅛-percent bond	10		66	2,131	2,197
	Total			13,761	15,832	29,59
	Recap:					
	Short-term bills			8,858		8,858
	Notes and bonds			4,903	15,832	20,735

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, Jan. 26, 1973.

TREASURY MARKET FINANCING MID-OCTOBER 1970 TO MID-FEBRUARY 1971

[Excludes the rollover of regular weekly and monthly bills]

Issue date	Description	Length Years	Length Months	Amount issued (millions) For cash	In exchange	Total
1970						
Oct. 15	26-week bill		6	$100		$100
Do	Tax anticipation bill		8	2,500		2,500
Oct. 22	26-week bill		6	100		100
Oct. 29	do		6	100		100
Oct. 31	Annual bill	1	0	200		200
Nov. 5	26-week bill		6	100		100
Nov. 12	do		6	100		100
Nov. 15	7¼-percent note	3	6		$4,508	4,508
Do	7½-percent note	5	9		2,511	2,511
Nov. 16	6¾-percent note	1	6	2,038		2,038
Nov. 19	26-week bill		6	100		100
Nov. 27	13-week bill		3	100		100
Do	26-week bill		6	100		100
Nov. 30	Annual bill	1	0	200		200
Dec. 2	Bill strip		2	2,105		2,105
Dec. 3	13-week bill		3	100		100
Do	26-week bill		6	100		100
Dec. 10	13-week bill		3	100		100
Do	26-week bill		6	100		100
Dec. 17	13-week bill		3	100		100
Do	26-week bill		6	100		100
Dec. 24	13-week bill		3	100		100
Do	26-week bill		6	100		100
Dec. 31	13-week bill		3	100		100
Do	26-week bill		6	100		100
Do	Annual bill	1	0	200		200
1971						
Jan. 31	do	1	0	200		200
Feb. 15	5¼-percent note	4	6		7,600	7,600
Do	6¼-percent note	7	0		8,300	8,300
	Total			9,243	22,919	32,162
	Recap:					
	Short-term bills			7,205		7,205
	Longer notes			2,038	22,919	24,957

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, Feb. 3, 1971.

TREASURY MARKET FINANCING MID-OCTOBER 1969 TO MID-FEBRUARY 1970

[Excludes the rollover of regular weekly and monthly bills][1]

Issue date	Description	Length Years	Length Months	Amount issued (millions) For cash	In exchange	Total
1969						
Oct. 14	Tax anticipation bill		6⅓	$2,007		$2,007
Oct. 29	do		8	3,004		3,004
Nov. 6	13-week bill		3	101		101
Nov. 13	do		3	114		114
Nov. 20	do		3	99		99
Nov. 26	Tax anticipation bill		5	1,007		1,007
Do	do		7	1,504		1,504
Nov. 27	13-week bill		3	102		102
Dec. 4	do		3	96		96
Dec. 11	do		3	99		99
Dec. 18	26-week bill		6	101		101
Dec. 26	do		6	118		118
1970						
Jan. 2	do		6	93		93
Jan. 9	do		6	109		109
Jan. 16	do		6	102		102
Jan. 23	do		6	106		106
Jan. 29	do		6	100		100
Feb. 15	8¼-percent note	1	6		$2,257	2,257
Do	8⅛-percent note	3	6		1,839	1,839
Do	8-percent note	7	0		1,856	1,856
	Total			8,862	5,952	14,814
	Recap:					
	Short term:					
	Bills			8,862		8,862
	Notes				2,257	2,257
	Longer notes				3,695	3,695

[1] The bill figures in the body of the table represent cash additions to regular bill series. Gross refunding amounts for the Oct. 14, 1969, to Feb. 12, 1970 are: 13-week series $32,400,000,000, 26-week series $21,600,000,000, 9-month series $2,000,000,000, and 1-year series $4,000,000,000.

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, Feb. 4, 1971.

TREASURY MARKET FINANCING MID-OCTOBER 1968 TO MID-FEBRUARY 1969

[Excludes the rollover of regular weekly and monthly bills][1]

Issue date	Description	Length Years	Length Months	Amount issued (millions) For cash	In exchange	Total
1968						
Oct. 24	Tax anticipation bill		8	$3,010		$3,010
Nov. 15	5⅝-percent note	1	6		$7,793	7,793
Do	5¾-percent note	6	0		2,329	2,329
Dec. 2	Tax anticipation bill		6¾	2,001		2,001
1969						
Jan. 20	do		5	1,759		1,759
Feb. 15	6⅜-percent note	1	3		8,764	8,764
Do	6¼-percent note	7	0		3,739	3,739
	Total			6,770	22,625	29,395
	Recap:					
	Short term:					
	Bills			6,770		6,770
	Notes				16,557	16,557
	Longer notes				6,068	6,068

[1] The bill figures in the body of the table represent cash addition to regular bill series. Gross refunding amounts for the Oct. 15, 1968, to Feb. 13, 1969 are: 13-week series $28,800,000,000, 26-week series $19,800,000,000, 9-month series $2,000,000,000, and 1-year series $4,000,000,000.

Source: Office of the Secretary of Treasury, Office of Debt Analysis, Feb. 4, 1971.

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. 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.

ORDERS FOR RECOGNITION OF SENATOR STEVENS AND SENATOR HARRY F. BYRD, JR., AND PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON THURSDAY, MARCH 8

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the distinguished Senator from New York (Mr. BUCKLEY) has been recognized under the order previously entered, the distinguished Senator from Alaska (Mr. STEVENS) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) for not to exceed 15 minutes, at the conclusion of which there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes each.

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. DOMENICI. 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 CONTINUED RISE IN THE PRICE OF FOODSTUFFS IN AMERICA

Mr. DOMENICI. Mr. President, as a Member of Congress, I have listened with care to the explanations of our President and of Secretary Butz about the continued rise in the price of foodstuffs in America.

I find their observations have considerable merit.

As a private individual, however, and the father of a family somewhat larger than the average for America, I observe—especially when my wife calls it so sharply to my attention—that the price of our weekly supermarket carts is spiralling ever upward.

Part of my frustration in the matter may be that I do not even know whom to blame. Certainly I do not blame the farmer or the cattle grower, whose share of the profits seems not yet to have reached those of other sections of our economy. I cannot specifically blame

manufacturers of food and fiber, wholesalers, or retailers.

But I am very sure of one thing: whoever may or may not be to blame, if we are to have a solution, the sacrifice necessary to bring it into being must be shared by everyone.

I predict to the Senate today that if these costs continue to rise, there is no way in the world we can keep the demands of labor for wage raises within the guidelines the President has established. The market basket and its price simply make up too big a share of the spending of a laboring man's family for this to be remotely possible.

What I am saying, Mr. President, is that I do not believe controls on some parts of our economy will be really effective unless we reasonably control all parts of our economy.

By what logic do we expect controls on wages to work when there are no controls on the price of the things those wages will buy? How is it fair—or even effective—to control a man's pay envelope when we do not effectively control profits of huge portions of our economy?

To solve our economic problems, some squeeze in one area alone is not enough; every segment of the economy must bear some squeeze. Otherwise, while the economy cools in one area, it heats up in another.

Mr. President, I address these observations to the Senate, not merely on behalf of my constituents, but also on behalf of my own family and out of sympathy with all families who bear the burden of the checkout counter—and who cannot go on seeing prices increase indefinitely.

QUORUM CALL

Mr. BUCKLEY. 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.

COMMENTS ON COMMON CAUSE MEMORANDUM RELATING TO SENATE RESOLUTION 69

Mr. ROBERT C. BYRD. Mr. President, prior to the debate and the vote earlier today on Senate Resolution 69, a memorandum, or news letter, entitled "News from Common Cause" was circulated. That memorandum, with respect to Senate Resolution 69, was dated for release Tuesday, February 27, 1973.

The common cause news letter was misleading, erroneous, and unfair in several respects. I shall address my comments to it at this time, for the RECORD.

To begin with, the Common Cause memorandum, which I shall shortly place in the RECORD in its entirety, states as follows:

> The Senate Rules Committee is attempting to derail a major Senate effort to end secret committee meetings, including mark-up and voting sessions. An effort is being made to rush through the Senate a resolution that would enable the most powerful Senate committees to continue to hold their legislative deliberations in secret.

To the contrary, the facts with respect to this misleading statement, Mr. President, are as follows: The Senate Committee on Rules and Administration reported Senate Resolution 69, providing for a change in rule XXV to make it possible—I repeat, to make it possible—for standing committees to hold open sessions when marking up and voting on proposed legislation. This they were forbidden to do—prior to the vote today—under the Legislative Reorganization Act of 1946, as amended.

Thus, far from attempting to "derail" an effort to end secrecy, the Rules Committee proposed a big step away from secrecy. The proponents of the resolution, Senate Resolution 69, considered that measure to embody a reasonable and forward move which had an excellent chance of adoption, one which was justified in the face of actions by some standing committees taken prematurely to open their markups, which actions under the existing legislative reorganization acts were illegal. Heretofore, over a period of 27 years, under the Legislative Reorganization Act of 1946, no standing committee could legally open its markup and voting sessions. There was no provision whatsoever for opening up such sessions. Senate Resolution 69, in reality, provided—for the first time ever—a rule whereby markup and voting sessions of standing committees can be opened to the public. As I indicated earlier today, going back to the founding of the Senate in 1789, there is no indication that markup sessions and voting sessions of standing committees of the Senate were ever required to be open. To the contrary, indications are that they were universally closed. In fact, during the first 5 years of the Senate's history, the Senate itself met in closed sessions. Thus, it was the purpose of the Rules Committee—confronted with the urgency created by the actions of certain committees in voting prematurely to open their markup sessions—to act with dispatch to report a resolution that would free such standing committees of the Senate from the chains by which they had been bound by the Legislative Reorganization Act, and which prevented them from holding open markup and voting sessions, their own wishes to the contrary notwithstanding.

The Common Cause memorandum stated as follows:

> The Senate Rules Committee Chairman, Mr. Cannon, and the subcommittee chairman dealing with Senate Rules, Senator Robert C. Byrd, failed to set any dates for hearings on this subject.

Mr. President, the author of the Common Cause news release indicated by this verbiage his thorough lack of knowledge, apparently, not only of what the Senate rules actualy require but also of what the Constitution of the United States provides.

Common Cause thus implied in its newsletter that hearings were required regarding a rules change and that failure to set dates for hearings constituted some kind of breach of parliamentary procedure.

The fact is that the Subcommittee on Rules was under no obligation to set any dates for hearings on the subject of a rules change. The subcommittee was under no obligation to conduct any hearings on this subject. Likewise, the Committee on Rules and Administration was under no obligation to conduct any hearings on this subject.

Under the Constitution of the United States, article I section 5, "Each House may determine the rules of its own proceedings." The Senate, therefore, may determine the rules of its own proceedings. It is not required by the Constitution or by any rule of the Senate to conduct public hearings on rules governing its own proceedings.

So, to say that the Senate Rules Committee chairman, Mr. CANNON, and the Senate subcommittee chairman, Mr. ROBERT C. BYRD, "failed to set any dates for hearings on this subject," was unfair and misleading, as I say, and it indicated that the composer or composers of the Common Cause news memorandum either did not know what they were talking about or they deliberately sought to distort the facts in an effort to persuade Senators to oppose Senate Resolution 69.

Mr. President, Senate Resolution 22 by Senator HUMPHREY and others was referred by the Rules Committee to the Subcommittee on the Standing Rules of the Senate, of which I am chairman, at the Rules Committee meeting on January 31.

Senate Resolution 58 by Senator CHILES and others was referred to the subcommittee at the Rules Committee meeting on February 7.

Senate Resolution 65 by Senator STEVENSON and others was referred to the subcommittee by the Rules Committee at its meeting on February 21.

The Subcommittee on the Standing Rules of the Senate met at the call of its chairman, Mr. ROBERT C. BYRD of West Virginia, in the Rules Committee hearing room on February 8 to consider these measures. Present were Senator GRIFFIN, a member of the subcommittee, and I. The third member of the subcommittee, Mr. CANNON, was not present but had knowledge of the meeting and had expressed his viewpoint as to remedial action necessary to deal with the situation. Senator METCALF, a sponsor of Senate Resolution 58, was also present. A staff representative of Senator STEVENSON was present and submitted a statement of Senator STEVENSON.

Senator METCALF expressed interest on behalf of Senate Resolution 58, but particularly he stated the urgency of the situation and the need for prompt, effective action by the subcommittee and the need for prompt, effective action by the subcommittee and the full committee in reporting a resolution to the Senate, pointing out as he had done on previous occasions that without such action by the Senate, certain committees would be taking the risk of having acted illegally in opening their markup and voting sessions in contravention of the requirements of the Legislative Reorganization Act of 1946 as amended.

This was not a subcommittee committee hearing, Mr. President. As I have already indicated, no hearing was required.

This was a meeting of the Senate Subcommittee on Rules, of which I am chairman. I had invited Senator METCALF to be present, in view of the fact that he is a principal author, on the Senate side at least, and certainly the most knowledgeable Member of this body regarding the Legislative Reorganization Act of 1970. I invited him to attend the meeting, moreover, because he had impressed on me repeatedly the necessity of taking prompt action in view of the developing situation I have already described.

I also invited the Parliamentarian of the Senate, Dr. Floyd Riddick, so that we would have his expertise in guiding us with respect to the drawing up of an adequate resolution to deal with the emergent situation. Also present were staff members of the committee and the subcommittee.

Following the discussions with the distinguished Senator from Montana (Mr. METCALF), the subcommittee then proceeded to mark up an original resolution which eventually was numbered Senate Resolution 69. It was reported to the full committee on February 20, ordered reported by the full committee on that date and was reported to the Senate on February 21, 1973, 2 weeks ago tomorrow.

Mr. President, the Common Cause memorandum went on to state as follows:

> Meanwhile, the anti-secrecy move caught fire. Committees have the right to adopt their own rules, including anti-secrecy rules. The Senate Interior Committee, under Senator Metcalf's sponsorship, opened their committee meetings.

Mr. President, the facts do not exactly square with Common Cause's statement. Committees had no "right to adopt their own rules" with respect to opening the sessions for markups and voting. Actually, it is amazing that Common Cause did not know better.

Section 133(b) of the Legislative Reorganization Act of 1946, as amended, provided in effect that a standing committee cannot decide, whether by majority vote or otherwise, to adopt a rule to conduct markup or voting sessions in public, or to proceed in open session for markup and voting on an ad hoc basis from day to day. One wonders whether the author of Common Cause news release dated February 27 had ever read section 133(b) of the act.

So, again, may I say that Senate Resolution 69 was designed to give standing committees—for the first time—the right to adopt their own rules "pertaining to open markup and voting sessions"—a "right" which, I repeat, they did not have prior to the adoption of Senate Resolution 69 today by the Senate, notwithstanding the statements contained in the Common Cause memorandum.

The Common Cause memorandum then proceeded to state as follows:

> The anti-secrecy proposal went to the Rules Committee in mid-January. Nothing more was heard about the subject until late February when an obscure notice was printed in the back of the Congressional Record. That notice announced that the Rules Committee in secret session had approved "an original resolution to amend rule XXV of the Standing Rules of the Senate relative to open and closed sessions of committees." The action, it was later learned, was by voice vote at the meeting which had not been publicly announced. Thus, no one but the Senators present know how the committee members voted or for that matter, whether a quorum was present. No public hearings were held on the resolution.

Mr. President, I have already addressed myself to the fact that public hearings were not required on the resolution. I need not repeat what I have said.

Otherwise, the facts are that the February 20 meeting of the Rules Committee—at which the original resolution, Senate Resolution 69, was ordered reported—was in fact announced in the CONGRESSIONAL RECORD for February 19, in the Digest, page 111, as an executive session but without detailing items on the agenda, which was not necessary, not required, and ordinarily not done in the case of Rules Committee agenda.

The full agenda sent to each member of the committee, I believe, was delivered on February 16 and did list Senate Resolution 69.

Also, for the record, Senators CANNON, PELL, ROBERT C. BYRD, ALLEN, WILLIAMS, GRIFFIN, and HATFIELD—seven Senators—were present when Senate Resolution 69 was ordered reported by the Rules Committee.

Again referring to the Common Cause memorandum:

> There was no explanation of the content of the resolution. Two days later, the text was slipped into the Congressional Record amidst numerous routine announcements.

The facts are, Mr. President, that the report was filed and printed on February 21 as Senate Report 93-43, as is customary, and the fact of its being reported was announced in the CONGRESSIONAL RECORD for that day. It was thus available rather quickly to anyone interested.

Quoting again from the Common Cause memorandum:

> This deft move by the anti-secrecy forces (sic) was accomplished without consultation with the ranking minority member of the committee.

The so-called "deft move" was not by the "antisecrecy forces," Mr. President, as I have indicated by the word "sic." The agenda listing Senate Resolution 69, as item 1, under "Committee Business," was hand delivered to the office of each member of the Committee on Rules and Administration on February 16.

Mr. President, the able senior Senator from Kentucky (Mr. COOK), who is a member of the Committee on Rules and Administration, today addressed himself to the subject of the resolution; and, as I recall, he indicated that in his judgment the actions of the subcommittee and the full committee were completely within the rules.

The Common Cause newsletter also stated:

> Common Cause and the staffers in the sponsors' offices met immediately and decided that a strongly co-sponsored anti-secrecy measure must be offered on the floor and an active campaign started for support. The result was a "Dear Colleague" letter signed by Senators Brock, Cook, Chiles, Humphrey, Mathias, Roth and Stevenson urging support for a substitute for S. Res. 69.

Mr. President, I am advised that the distinguished Senator from Kentucky, Mr. COOK, did not sign the "Dear Colleague" letter mentioned by Common Cause. I ask unanimous consent that the Common Cause news release be printed in the RECORD in its entirety.

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

EDITORIAL MEMORANDUM ON THE SENATE ANTI-SECRECY BATTLE (S RES 69)

The following memorandum traces the history of the anti-secrecy battle now going on in the U.S. Senate over S. Res. 69.

You are free to use this in any way you wish.

If you have any further questions, do not hesitate to contact our office.

The Senate Rules Committee is attempting to derail a major Senate effort to end secret Committee meetings including mark-up and voting sessions. An effort is being made to rush through the Senate a resolution that would enable the most powerful Senate committees to continue to hold their legislative deliberations in secret.

I. EARLY SENATE INTEREST

At Common Cause's urging, Senator Humphrey (D-Minn.) and Senator Roth (R-Del.) introduced a proposed anti-secrecy rules change this year. The proposal has the support of 16 other senators. Senator Chiles (D-Fla.) reintroduced his open meetings legislation which applies to the legislative, executive and independent agencies. The bill has 25 sponsors and Common Cause helped solicit sponsorship. Senator Stevenson (D-Ill.) and Senator Mathias (R-Md.) also introduced an anti-secrecy rules change.

Senate Rules Committee Chairman Cannon (D-Nev.) and the subcommittee chairman dealing with Senate rules, Senator Robert Byrd (D-W. Va.), failed to set any dates for hearings on this subject.

II. ANTI-SECRECY SPREADS

Meanwhile the anti-secrecy move caught fire. Committees have the right to adopt their own rules, including anti-secrecy rules. The Senate Interior Committee, under Senator Metcalf's sponsorship, opened their committee meetings. This is the first committee to do so. Senator Jackson (D-Wash.), the committee chairman, supported the move.

Senator Proxmire (D-Wisc.) and Senator Packwood (R-Ore.) moved to open the meetings of the Senate Banking, Housing and Urban Affairs Committee. Senator Tower (R-Tex.) moved to table and thereby kill the open meetings proposal. It failed by a vote of 9-6. The Banking Committee has the votes for open meetings. By agreement, the Banking Committee postponed their vote until early March.

III. SENATE RULES COMMITTEE ACTS

The anti-secrecy proposal went to the Rules Committee in mid-January. Nothing more was heard about the subject until late February when an obscure notice was printed in the back of the CONGRESSIONAL RECORD. That notice announced that the Rules Committee in secret session had approved "an original resolution to amend rule XXV of the Standing Rules of the Senate relative to open and closed sessions of committees." The action, it was later learned, was by voice vote at the meeting which had not been publicly announced. Thus, no one but the Senators present know how the committee members voted or, for that matter, whether a quorum was present. No public hearings were held on the resolution.

There was no explanation of the content of the resolution. Two days later, the text was slipped into the Congressional Record amidst numerous routine announcements. The resolution (S. Res. 69) provides that committee business meetings will be closed for marking up (drafting) bills, for voting "or when the committee by majority vote orders a closed session." Although the resolution allows a committee to vote to open any session that it designates as normally closed, experience suggests that whenever Congressmen

are allowed to act in secret they normally opt to do so.

This deft move by the anti-secrecy forces was accomplished without consultation with the ranking minority member of the committee (Senator Cook) nor notification to the principal sponsors of anti-secrecy resolutions—Senators Chiles, Humphrey, Mathias, Roth and Stevenson. Their offices were surprised to read the notice in the Congressional Record. Senator Cook was at the meeting but left and was not told that an issue of which he was a co-sponsor was going to be discussed.

Common Cause and the staffers in the sponsors' offices met immediately and decided that a strongly cosponsored anti-secrecy measure must be offered on the floor and an active campaign started for support. The result was a "Dear Colleague" letter signed by Senators Brock, Cook, Chiles, Humphrey, Mathias, Roth and Stevenson urging support for a substitute for S. Res. 69. This substitute assures open meetings and hearings unless there is a public, recorded vote to close a session. It is patterned after a resolution already adopted by the House Democratic Caucus.

IV. CONCLUSION

The disgrace of secrecy is that it is really only secrecy-from-the-public. The Public Works Committee holds no mysteries for the highway lobby, nor the Agriculture Committee for agri-business, and the deliberations of the Ways and Means Committee or Finance Committee—so hidden from the public—are accessible to a whole swarm of loophole lizards.

Public business should be conducted publicly. The reasons for an exception to this rule should be few: adverse effect on national security, defamation, invasion of privacy. Every time a committee closes its sessions, it should do so only for that session, and its reasons should be specified.

Passage of the Common Cause supported substitute for S. Res. 69 will accomplish this.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my appreciation to the distinguished Senator (Mr. HASKELL) who is presiding over the Senate at this late hour for his indulgence, and to other Senators, and to the officers of the Senate. I appreciate their indulgence, and I apologize for taking the time of the Senate. But I felt that it was only fair to the Committee on Rules and to the Subcommittee on Rules that these comments be made, setting the record straight, pointing to the errors and misleading paragraphs in the memorandum by Common Cause.

I feel that the Senate acted wisely today. I can understand the enthusiasm with which Common Cause approaches these matters. But enthusiasm is no excuse for error or misrepresentation. In all likelihood, the person or persons who prepared this memorandum—erroneous in many respects—probably never sat in a legislative body. I have no way of knowing, of course. In any event, they appear to be long on advice but short on experience, as is so often the case with such organizations.

I do not question the good intentions of the founders, representatives, or employees of Common Cause. I am sure they are acting in what they think are the best interests of the country.

But Common Cause is a special interest group. It does not represent the public, although it may claim to do so. We Senators are the duly elected representatives of the public, and we are responsible to the public in our several States—not to such special-interest organizations and pressure groups as Common Cause. I resent, and every Member of the Senate ought to resent the kind of deceitful newsletter released by Common Cause on February 27 in its effort to influence Senators to vote against Senate Resolution 69. This kind of misleading propaganda is intended to delude the public and undermine faith and confidence in the Senate. It ought to be rejected out of hand.

As I stated today, Mr. President, those of us who are elected by the people, and who have to stand for reelection by the people at regular intervals, we who have served in various legislative bodies from State legislatures to the House of Representatives, to the Senate, I think recognize that there are times when sensitive subjects must be discussed within the committees and that it is often in the best interests of the public—perhaps not in the best interest of special interest or pressure groups, but in the best interest of the public—that such committee meetings be closed.

Senate Resolution 69 made no change in section 133(A) subsection (b) of the Legislative Reorganization Act, which has to do with hearings. Hearings should be open, and they are open, and will remain open. Hearings of standing committees, select committees and special committees are open under the Legislative Reorganization Act, except when matters affecting national security are involved, or when testimony which would be adduced therein would be adverse to the reputation or character of a witness or some other individual, or would divulge matters deemed confidential under other provisions of law.

Section 133A(b) is not affected by the action that was taken today. Open hearings are in the public interest as provided by that section of the act, which, as I say, is left untouched.

As I previously indicated, under the Legislative Reorganization Act a record must be kept during markup sessions and voting sessions of the business that is transacted in each of the standing committees. That record can always be made public. Moreover, a tabulation of rollcall votes is required under the Legislative Reorganization Act, and that tabulation will indicate those who voted for and those who voted against any measure on which a rollcall vote is demanded.

Additionally, information concerning rollcall votes is required to be included in the committee report on any measure unless such information is previously announced.

So, under the rules and the Legislative Reorganization Act there is ample protection for the public. There have been times and there will be again when it is in the public interest that markup sessions be closed. It may not meet with the approval of special interest groups or pressure groups because they would like to be there and the power of their presence might then be overriding—or even intimidating—but the public interest would suffer because the public would not be present.

Again, as I attempted earlier to point out, Mr. President, the Senate is unlike the House of Representatives. For one thing, in the Senate, there is no rule of germaneness, except in appropriation bills or when unanimous-consent agreements include such. Additionally, unlike the House, there is no moving of the previous question here in the Senate which cuts off debate.

Furthermore, the Senate, unlike the House, has no closed rule. In the other body, the Committee on Ways and Means brings a bill to the floor under a closed rule and no Member of the House, other than a member of the Committee on Ways and Means, may offer an amendment to that bill. That is not the case in the Senate. Any Senator can, at any time on any bill or resolution, offer an amendment and demand a roll call vote on that amendment in the Senate in full public view.

So, Mr. President, for these reasons again I want to say I think the Senate took the right action today. I do not find any fault with those Senators who voted for the Roth amendment. I am sure they voted for what they thought to be in the best interests of the Senate and the public, but I think the majority of the Senate today—as so often the majority in the Senate in the past has done—saw the matter clearly, and voted wisely and in the longrun best interests of the people and of the Senate itself.

Mr. ROBERT C. BYRD. Mr. President, I also ask unanimous consent to have printed in the RECORD a column published in the Wall Street Journal of February 14, 1973, by Vermont Royster, titled "Thinking Things Over—Secrecy and All of That."

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

THINKING THINGS OVER

(By Vermont Royster)

SECRECY AND ALL OF THAT

One of the first chores of the new 93rd Congress, which began in January, was to organize itself—choose a Speaker, President pro tem of the Senate, majority and minority leaders, and assign members to the various committees where the real work gets done.

That last chore is especially important, and very touchy. It makes a bit of difference in the legislative process who gets assigned to what committee, and it has a lot to do with a new member's prestige and influence. A situation ready-made for acrimonious infighting.

This year, as usual, it was all done in secrecy. In the House, where the problem of divvying up committees is more acute because of the numbers, each party has a Committee on Committees. It, in turn, has a smaller subcommittee which does the actual work of assignment. And both the Committees on Committees and the subcommittees of the committees work behind closed doors.

Since this is the way it's always been done, and on the whole has worked pretty well, it might not be worth remarking upon except for the loud clamor in Congress against secrecy in government, especially the clamor from Democrats right now against a Republican administration. The issue of "the people's right to know" is one which the news media, too, usually make much of, except when they're talking about, "shield" laws to give reporters the right to decide what the people have no right to know.

But since Congress here makes an exception to its grand principle, and press criticism of it has been oddly muted, perhaps the example may serve for a closer look at this whole question of secret versus open processes in government as they affect good government, and so the public interest.

First off, it might be noted that open covenants secretly arrived at are nothing new in our Republic, a process not always decried either. When the Constitutional Convention met in Philadelphia to draw our charter for liberty, the first thing the Founding Fathers did was to close their sessions to press and public. We have only a few diary notes, especially those of Madison, as to who said what on what issue while the issue was in doubt.

The final covenant, the Constitution itself, was of course made public for the people to judge. But Benjamin Franklin, surely no foe of liberty or a free press, even urged the delegates to keep their debating difference secret after the event.

"If every one of us," he said at the last session, "were to report the objections he has had to it, and endeavor to gain partisans in support of them, we might prevent it being generally received and thereby lose all the salutary effects and great advantages . . . ."

A little browsing through the record shows that Congress has often seen virtues in "secret" discussions. In the past ten years the Senate has held closed sessions at least six times; in 1963 to discuss missile defenses, in 1966 to talk about the CIA, in 1969 to discuss the matter of Laos and Cambodia, to mention a few.

In the House any committee is required to close its sessions when dealing with some matters, as for example information which "may tend to defame, degrade or incriminate any person."

So we begin then with a recognition that some "secrecy" in the governmental process has not been universally condemned. Or, perhaps a better way of putting it, some privacy in the discussion that leads to decisions is useful to the public interest where what is sought are candid opinions uninfluenced by fears of how those opinions might be received in the glare of publicity.

The principle is often applicable whether the meeting be of a congressional committee, a President's Cabinet or of a local board of aldermen. What useful purpose would have been served by forcing Kissinger and Tho, in the name of the people's right to know, to hold their talks before scribbling reporters and the TV camera? Could they then have gotten an agreement?

Nor is this the whole of the matter. There are other instances when it is dubious whether total publicity serves the public interest. "Open records" are not necessarily a universal public good either. In many defense matters, obviously. There are many reports in governmental files, including income tax and personnel records, the casual broadcast of which could do private injury and, so doing, ill serve the public interest.

Yet for all of that it remains true that in a free society the public business must ultimately be open to the public scrutiny and public judgment. The issue of "secrecy in government" does not vanish simply because reasonable men have recognized, at diverse times for diverse causes, that some reserve contributes to the public business.

The problem is to decide which is which. And if that is sometimes difficult, whoever promised that ordering a free society would be easy?

One possible distinction, of course, is among the hearing, deliberation and decision processes. The hearing process, whether formal or informal, is that by which the public makes known its opinion, whether on war or peace or where to build a new highway or whether an accused is guilty. It can never be circumscribed or held in camera without grave injury.

Nor can the decision process. The public must know not only what was decided (no secret agreements, foreign or domestic) but who decided it. The roll must be called in Congress, the jury polled, the President stand up publicly to be counted.

It's in the process leading to decision, the deliberative process, that matters aren't so simple. It's all very well to say Congress should publicly debate questions before it, but the practical effect is to drive the deliberative process from the floor to the committee rooms, cloak rooms and corridors. There, in privacy, the members can discuss with candor, change their views without embarrassment, speak without the burden of defending partisan views, untempted to play to the gallery. No one expects a jury to deliberate in a packed town hall.

So there are, take it all in all, some occasions where privacy—secrecy, if you will—serves the governmental process better than the full glare of publicity. It's not a very remarkable thought, and would hardly be worth remarking except for the present clamor that those who serve us always serve us ill, no matter what the circumstances, if they close the door of the council chamber.

Anyway, those Founding Fathers, so revered in other matters, thought to conduct some affairs in "secrecy" and still gave us a pretty good government.

AUTHORIZATION FOR COMMITTEES TO REPORT BILLS AND JOINT RESOLUTIONS DURING ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized during the adjournment of the Senate over until Thursday at noon to report bills and joint resolutions.

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

AUTHORIZATION FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT AND THE HOUSE OF REPRESENTATIVES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Thursday next, the Secretary of the Senate may be authorized to receive messages from the President of the United States and the House of Representatives.

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

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Thursday next the Vice President, the President pro tempore, and the Acting President pro tempore may be authorized to sign duly enrolled bills and joint resolutions.

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

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD ON THURSDAY, MARCH 8, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the Senator from Virginia (Mr. HARRY F. BYRD, JR.), on Thursday, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 15 minutes.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Thursday next is as follows:

The Senate will convene at 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Senators HUGHES, BELLMON, BUCKLEY, STEVENS, HARRY F. BYRD, JR., and ROBERT C. BYRD.

Mr. President, following the aforementioned orders for the recognition of Senators there will be a period for the transaction of routine morning business of not to exceed 30 minutes with statements limited therein to 3 minutes each.

At the present time, only two measures are on the legislative calendar, they being S. 22, a bill to establish a system of wild areas within the lands of the National Forest System, and S. 800, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, to provide for the compensation of innocent victims of violent crime in financial stress. Action may occur on either of these bills on Thursday. I would not rule out such action at this time.

Other bills and resolutions may be reported by committees during the adjournment and placed on the calendar and cleared for action by Thursday. Yea-and-nay votes could, therefore, occur on Thursday. The leadership urges all committees to take full advantage of the adjournment and conduct meetings or hearings in the interest of reporting measures to the Senate as expeditiously as is possible so that floor action thereon can follow. Time is wasting. The calendar is bare and the leadership has confidence that all committees will respond accordingly.

ADJOURNMENT TO THURSDAY, MARCH 8, 1973

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon on Thursday, March 8, 1973.

The motion was agreed to; and at 6:30 p.m. the Senate adjourned until Thursday, March 8, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 6, 1973:

U.S. DISTRICT COURTS

Daniel J. Snyder, Jr., of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania, vice Joseph F. Weis, Jr.

DEPARTMENT OF JUSTICE

Louis O. Aleksich, of Montana, to be U.S. marshal for the district of Montana for the term of 4 years (reappointment.)

DEPARTMENT OF THE INTERIOR

Stephen Alan Wakefield, of Texas, to be an Assistant Secretary of the Interior, vice Hollis M. Dole.

DEPARTMENT OF COMMERCE

C. Langhorne Washburn, of Virginia, to be Assistant Secretary of Commerce for Tourism.

COMMODITY CREDIT CORPORATION

The following-named persons to be members of the Board of Directors of the Commodity Credit Corporation:

Robert W. Long, of California, vice Thomas K. Cowden, resigned.

Clayton Yeutter, of Nebraska, vice Richard E. Lyng, resigned.

ACTION

Michael P. Balzano, Jr., of Virginia, to be Director of ACTION, vice Joseph H. Blatchford, resigned.

INTERSTATE COMMERCE COMMISSION

A. Daniel O'Neal, Jr., of Washington, to be an Interstate Commerce Commissioner for a term of 7 years expiring December 31, 1970, vice Rodolfo Montejano.

NATIONAL CREDIT UNION BOARD

Lorena Causey Matthews, of Tennessee, to be a member of the National Credit Union Board for a term expiring December 31, 1978, (reappointment.)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenant

Dennis Pepe.

To be lieutenant (junior grade)

Kent P. Dolan.

DEPARTMENT OF TRANSPORTATION

Robert Timothy Monagan, Jr., of California, to be an Assistant Secretary of Transportation, vice John E. Hirten, resigned.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

John R. Ottina, of California, to be Commissioner of Education, vice Sidney P. Marland, Jr.

EXTENSIONS OF REMARKS

IMPACT AID PROGRAM FOR EDUCATION

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 6, 1973

Mr. HARRY F. BYRD, JR. Mr. President, the February 21 edition of the Norfolk Ledger-Star included an excellent editorial on the subject of the impact aid program for education.

As is pointed out in the editorial, it is essential that the level of Federal spending be reduced. But the editorial also states that impact funds are not the place to look for reductions.

Under the impact aid program, funds are paid by the Federal Government to localities to compensate for loss of taxes caused by the fact that Federal installations are situated within their boundaries. An interesting example is York County, Va., in which more than half the land area of the county is occupied by Government-owned installations, which are not on the tax rolls. Of the Government-owned land, 73 percent is Federal property.

The loss to local school districts which would be occasioned by a drastic reduction in impact aid funds would be severe.

I ask unanimous consent that the editorial, "The Assault on Impact Funds," be included in the Extensions of Remarks.

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

THE ASSAULT ON IMPACT FUNDS

The struggle to preserve federal impact funds for education is an annual exercise with a fairly predictable scenario. The administration—any administration—proposes deep cutbacks in the program; the localities receiving the funds register their protests; the Congress usually responds by restoring them. And there was some encouragement yesterday, with respect to the current fight, when the House Appropriations Committee reported out a bill maintaining impact funds at their current level.

What could make the situation a little different this year is the emphasis that has been placed by President Nixon on keeping federal spending under control. Not only is there his impoundment of funds already appropriated by the Congress in this fiscal year's budget; he is trying to restrain the spending pressures in the budget proposed for fiscal '74.

The federal economizing effort is to be applauded; indeed this is absolutely essential if the nation ever hopes to win the battle against inflation and get the economy on an even keel.

But the impact funds simply are not, in our view, the place to look for reductions. In the first place, the philosophy behind them is very clear and logical. They go into the public education of military and other federally-connected children. The basic premise is that because local education funds come primarily from real estate taxes and the federal installations pay no taxes, the impact funds can help to offset in part—and only in part—this loss of local revenues.

Granted, Tidewater localities receive large amounts of money from Washington through this program. But, then, such installations as the Naval Base, the Naval Shipyard, the Naval Amphibious Base and many others remove from the local tax rolls vast amounts of valuable property that, in commercial hands, would yield far more in property tax dollars.

One thing that may have contributed somewhat to the perennial White House assault on the program is the fact that over the years it has been subject to much tampering. Formulas are altered, expanded, contracted and such, so that the basic purpose may too easily be forgotten in the congressional maneuvering.

But the fact that this practice has sometimes obscured the main purposes does not mean that those purposes are not fully valid. If the federal government sees fit to drastically curtail these revenues, because of the complex formulas or whatever reason, then in fairness it should offer an acceptable alternative: Like paying real estate taxes maybe?

RESOLUTIONS ADOPTED AT THE INTERPARLIAMENTARY CONFERENCE ON EUROPEAN COOPERATION AND SECURITY: REGULAR MEETING OF THE U.S. GROUP OF THE INTERPARLIAMENTARY UNION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 6, 1973

Mr. DERWINSKI. Mr. Speaker, as chairman of the U.S. Delegation to the Interparliamentary Union, it was my privilege and responsibility to participate along with Members of both the House and Senate in the Interparliamentary Conference on European Cooperation and Security held recently in Helsinki, Finland.

A detailed report of the meeting and the other functions in which the delegation participated will be presented for the RECORD. I am taking this time to insert into the RECORD the resolutions passed by the conference.

The resolutions follow:

WAYS AND MEANS OF DEVELOPING COOPERATION ON AN EQUAL FOOTING AND OF BUILDING UP LASTING PEACE AND SECURITY IN EUROPE, TAKING INTO ACCOUNT THE CONTRIBUTION OF THIS CONTINENT TO PEACE AND PROSPERITY IN THE WORLD

(a) Proposals in the area of security

(b) Proposals in the area of economic relations

(c) Proposals for co-operation in the areas of science, technology, education and culture, as well as exchanges of persons and information

The Inter-Parliamentary Conference on European Co-operation and Security,

Deeply conscious of the fact that Europe has, in this century, been the source of two world wars and is still that part of the world which has the largest concentration of armaments and armed forces,

Considering that the establishment of peace in the world will be assisted by the progress which will be made in organizing co-operation and security in Europe,*

Noting that important progress has been made in co-operation in Europe among States as a result of efforts by the States concerned and as reflected, in particular, in the conclusion of treaties between the Soviet Union, Poland and the Federal Republic of Germany, the Four-Power Agreement of June 1972, the treaty between the Federal Republic of Germany and the German Democratic Republic, and the agreement between the Soviet Union and the United States of America on the limitation of strategic weapons, as well as other treaties furthering peace in Europe,

Recalling the provisions of the Charter of the United Nations and of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, and reaffirming, in particular,

The principles of sovereignty, inviolability of frontiers, territorial integrity and independence as well as of the right to participate on an equal footing in international relations;

The right of all peoples to choose freely, without any kind of interference, the form of their respective social and political systems;

The duty of all States to refrain from the use of force or threats thereof, as well as to solve their conflicts by peaceful means and to implement in good faith their obligations under international law;

Considering that broad economic co-operation in Europe, as well as between the countries of that continent and those of North America, rendered particularly necessary by their economic development and based especially on the intensification of all possible forms of economic relations as well as on non-discrimination by the gradual reduction of discriminatory practices, could promote interdependence, mutual confidence and the security of European States,

Aware of the responsibilities of European

*The word "Europe" as used in this text implies, where appropriate, the inclusion of the United States of America and Canada as participating countries.