"Gi-ant!" put in another before Rietzke was able to tell them that the Woodland post office is about as big as the Plainfield playground, an answer that brought gasps and wide-eyed stares from the second-graders.

Miss Guidoni said that Rietzke's talk and the model post office has been a "real incentive for writing letters" for her students. Each child in her class has his own post office box and there are boxes for each of the other classes in the school too.

This has made Miss Guidoni's classroom the communications center of Plainfield school. With Valentine's day approaching, the boxes are overflowing with hand-made love messages for everyone from the "little red haired girl" to principal William Linford.

Much of Rietzke's speech centered around the hobby of stamp collecting, a subject that immediately drew attentive listeners from the class. He told the youngsters about the United Nations stamps, which only may be purchased in the UN buildings in Switzerland and New York, the wildlife stamps showing rare and unusual animals and strange foreign stamps—"to tell you the truth, I don't even know where these are from!"

Many of the youngsters at remote Plainfield school were especially interested in the rural mail routes, since most of them receive their mail this way. Rietzke showed pictures of unusual mail boxes—some shaped like cars or bird houses—and told the children that any kind of box is legal "as long as it keeps the mail dry and has the person's name on it."

After introducing the youngsters to the mysteries of zip codes, pick up notices and c.o.d., Rietzke opened up another favorite subject, the mail man's uniform.

"When I grow up I want to be a postman," one boy said after viewing the blue jackets.

"Well good!" Rietzke put in enthusiastically. "You'll have to study hard your math and spelling," he warned.

"Some of you girls may grow up to be a mail clerk—you never know," he added.

Before letting the children come up to inspect the post office boxes and uniforms, Rietzke said, "If you ever come up to the post office, you'll see me at the window or my friend Bert.

"Now all you have to do is start writing letters."

SENATE—*Tuesday, March 13, 1973*

The Senate met at 12 o'clock meridian 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, in whom our fathers trusted and in whom we trust, since in Thy mercy another day has been added to our lives, we offer to Thee all that we are or hope to be. May Thy completeness surround our incompleteness, Thy strength support our weakness. Thy divine wisdom guide our human minds. Give us the manhood of the Master. Grant us greatness of spirit to match the magnitude of our labors. And here we would offer to Thee life's highest gift—our lives, by Thy mercy made clean, strong, and trustworthy in the service of the Nation.

We pray in His name who came not to be ministered unto, but to minister. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 13, 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.

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.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 12, 1973, be dispensed with.

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

MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 334) to provide for the designation of the second full calendar week in March 1973 as "National Employ the Older Worker Week."

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

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.

SHIRLEY L. BACON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 66, Senate Resolution 80.

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

The assistant legislative clerk read as follows:

S. Res. 80, to pay a gratuity to Shirley L. Bacon.

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

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Shirley L. Bacon, widow of Raymond E. Bacon, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania desire to be recognized at this time?

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

EXECUTIVE PRIVILEGE

Mr. ROBERT C. BYRD. Mr. President, I am disturbed by President Nixon's statement yesterday, in which he said that he would invoke Executive privilege as a means of keeping current and former members of his personal staff from appearing before congressional committees.

What particularly disturbs me is his precedent-setting shield of former staff members from congressional inquiries, and the fact that his statement was issued during the Senate Judiciary Committee's first-time-ever hearings on the nomination of a Director of the Federal Bureau of Investigation.

As all of us are aware, the present chapter in the age-old debate over Executive privilege arose during the last few years of the Vietnam war. That war is now ending, and the President deserves all the accolades he has received for

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achieving peace, however tenuous, in Southeast Asia. I would hope that the President now would take steps to quell the struggle between the executive and legislative branches of our Government. He will only heighten the pitch of the battle by indiscriminately using Executive privilege.

I agree with President Nixon that there is nothing new in Executive privilege. Presidents have been using it ever since George Washington protested the investigation by Congress of the Saint Clair Expedition during his first term as Chief Executive. Despite the contention of privilege, however, all of the Saint Clair documents were eventually turned over to Congress.

There is no mention of such a privilege in the Constitution. Its exercise is asserted to be an inherent power of the President, on the ground that it is necessary to provide the Executive with the autonomy to properly discharge its duties in faithfully executing the laws.

On the other hand, the Constitution vests all legislative power in the Congress, and the power to legislate carries with it, by implication, the authority to obtain information needed in the rightful exercise of that power and to employ compulsory process for that purpose.

The issue involves competing principles: The alleged power of the President to withhold information, the disclosure of which he feels would impede the performance of his constitutional responsibilities; and the power of the legislative branch to obtain the information it needs in order to legislate. But the basic principle involved here is the right of the public to know what the Government is doing. When the people, through their elected representatives, do not know what is going on in another part of the Government, those who govern are not properly accountable for their actions. Accountability is the very basis of our democratic system.

While conceivably a privileged communication between the President and an adviser should be accorded some protection, such a privilege should not be extended to the point that it includes an unwillingness to share the Government with the Congress. Some way must be found to curtail the assertion of executive privilege, except in situations involving bona fide privileged communications of great sensitivity.

The indiscriminate use of executive privilege—such as its blanket extension to all former staff members of the President—can only serve to distort its historical concept and injure the credibility of the Government.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from West Virginia yield?

The ACTING PRESIDENT pro tempore. The time of the Senator from West Virginia has expired.

Mr. MANSFIELD. Mr. President, I seek recognition.

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

Mr. MANSFIELD. Mr. President, I want to commend the distinguished Senator from West Virginia for the cogent statement he has just made. It does appear to me that the question of Executive privilege may well be approaching a crisis stage and I would hope that the President would reconsider the statement which he issued yesterday which I think covers too much territory, goes back too far, and leaves out former officials from appearing before the appropriate congressional committees under reasonable and seasonable circumstances.

It is my understanding that the Judiciary Committee is meeting today to look into this matter of calling Mr. John Dean——

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. MANSFIELD (continuing). To appear before that committee, on the basis of certain statements made by Mr. L. Patrick Gray, the President's nominee for the office of Director of the Federal Bureau of Investigation.

There is, in the words of the distinguished Senator from North Carolina (Mr. ERVIN), as he applied it to the impoundment issue:

> Not a syllable in the Constitution which gives a President, any President, the right to assert executive privilege.

We all recognize that there must be a certain degree of confidentiality between a President and certain of his advisers, but that must not be all-embraceable because, as the Senator has said, the public has a right to know, and sometimes they can know only through the appropriate committees considering certain nominees or certain types of legislation.

We do not want to pry into the confidentiality which any President is entitled to have, but we do not want to see the doctrine of Executive privilege, which embraces confidentiality, spread too far, too wide, or too far back, because this matter should be settled between the Congress and the President on an amicable basis. Certainly we should be able to reach an accommodation which would recognize the rights of the Chief Executive on the one hand, the right of confidentiality, the right of Executive privilege to a limited degree, and also the right of Congress, in this instance the Senate, to have access to knowledge and to be able to listen to witnesses who can give us information to which the public is entitled; because, regardless of our position as President or Senator, the public is entitled to the final and, may I say, the primary consideration, because the President and the Members of this body are servants of the people and are answerable to them.

So I hope that an adjudication or at least an accommodation of this matter can be arrived at, in the interest of both the executive branch and the legislative branch.

The ACTING PRESIDENT pro tempore. The time of the Senator from Montana has expired.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ENTITLED "BETTER USE COULD BE MADE OF U.S. ASSISTANCE AND OTHER SUPPORT TO THE PHILIPPINES"

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report entitled "Better Use Could Be Made of U.S. Assistance and Other Support to the Philippines" (with an accompanying report); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. HATHAWAY):

A joint resolution of the House of Delegates of the Commonwealth of Virginia; to the Committee on the District of Columbia:

"HOUSE JOINT RESOLUTION No. 229

"Memorializing the Congress of the United States to undertake corrective actions at the Lorton Prison Complex to insure proper administration and security of that facility

"Whereas, the District of Columbia's penal institution at Lorton, Virginia is unique in that it is physically located within the confines of the Commonwealth of Virginia; and

"Whereas, the administration and control of subject facility is exclusively that of the District of Columbia government with no participation by local or State governmental officials or agencies; and

"Whereas, there have been one hundred thirty-seven instances of prisoner escapes during the nineteen hundred seventy-two calendar year, an increase of fifty-eight over nineteen hundred seventy-one, endangering the lives and safety of Virginia citizens; and

"Whereas, the administrators of subject facility have responded to local citizen concern in an arrogant and most uncooperative manner; and

"Whereas, citizens of Virginia have been captured in their homes, kidnapped and escapees of the Lorton Complex have been charged with the murder of a police officer; and

"Whereas, there have been fifteen inmate assaults on prison officers and sixty-three cases of assaults by inmates upon inmates with three violent deaths; and

"Whereas, the consumption of alcoholic beverages and use of hard drugs has become commonplace within the prison complex with four recorded instances of death due to drug overdose in nineteen hundred seventy-two; and

"Whereas, escapes have taken place at Lorton Prison and gone unreported to Fairfax County, Prince William County, and State law enforcement agencies, for as long as an eight hour period of time, endangering the lives and safety of Virginia residents; now, therefore, be it

"Resolved by the House of Delegates, the Senate of Virginia concurring, That the Congress of the United States is memorialized by the General Assembly of Virginia to give its most expeditious consideration to transferring the control of the Lorton Prison Complex to the Federal Prison Systems, and to undertake corrective actions to insure proper administration and security of subject facility.

"Resolved further, That the Clerk of the House of Delegates is instructed to send copies of this resolution to the Clerk of the House of Representatives and the Senate of the United States Congress, and to the Virginia delegation in the Congress.

"Agreed to by the House of Delegates, February 7, 1973.

"Agreed to by the Senate, February 23, 1973."

A joint resolution of the Senate of the Commonwealth of Virginia; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION No. 130

"Memorializing the Congress of the United States to propose an amendment to the Constitution of the United States, relating to tenure of federal justices and judges

"Whereas, the justices of the Supreme Court and judges of the inferior courts of the United States are appointed for life, and are removable only by impeachment; and

"Whereas, in forty-seven of the fifty states, including this Commonwealth, the judiciary has fixed tenure; and

"Whereas, the experience in this Commonwealth reveals that although the judges may be removed from office at the end of their terms, the judiciary has remained independent; and

"Whereas the Congress of the United States should be granted the power parallel to that which this General Assembly now has, that is, to review the records of its federal justices and judges of inferior courts; now, therefore, be it

"Resolved by the Senate of Virginia, the House of Delegates concurring, That the Congress of the United States is hereby memorialized to adopt and offer to the States for ratification or rejection the following amendment to the Constitution of the United States:

" 'ARTICLE —

" 'SECTION 1. Notwithstanding the provisions of the second sentence of Section 1 of Article II of the Constitution, each justice of the Supreme Court and each judge of an inferior court established by Congress under Section 1 of Article III shall hold his office during good behavior for terms of eight years. During the eighth year of each term of office of any such justice or judge, his nomination for an additional term of office for the judgeship which he holds shall be placed before the Senate in the manner provided by the law, for the advice and consent of the Senate to such additional term, unless that justice or judge requests that his nomination not be so placed. Any justice or judge whose nomination for an additional term of office is so placed before the Senate may remain in office until the Senate gives its advice and consent to, or rejects, such nomination. If the Senate gives its advice and consent to an additional term of office, that term shall commence from the date of such advice and consent, or the day immediately following the last day of his prior term of office, whichever is later.

" 'SEC. 2. The terms of office established by Section 1 of this article shall apply to any individual whose nomination for a judgeship is submitted after the ratification of this article to the Senate for its advice and consent.'

"Resolved further, That the Clerk of the Senate is hereby instructed to send copies of this Joint Resolution to the members of the Virginia delegation in the Congress of the United States and to the President and Vice President of the United States, and the Clerks of the Senate and the House of Representatives.

"Agreed To By The Senate without amendment February 9, 1973.

"Agreed To By The House of Delegates without amendment February 23, 1973."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 502. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes (Rept. No. 93-61), together with individual views.

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. COOK:

S. 1173. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966. Referred to the Committee on Commerce.

S. 1174. A bill to authorize the U.S. District Court for the Eastern District of Kentucky to hold court at Pineville, Ky. Referred to the Committee on the Judiciary.

S. 1175. A bill to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States. Referred to the Committee on the Judiciary.

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

S. 1176. A bill to amend section 3304(a) of title 5, United States Code, to provide for oral examinations in the competitive service. Referred to the Committee on Post Office and Civil Service.

By Mr. TALMADGE (by request):

S. 1177. A bill to continue mandatory price support for tung nuts only through the 1976 crop. Referred to the Committee on Agriculture and Forestry.

By Mr. TALMADGE:

S. 1178. A bill to establish certain qualifications for individuals appointed to the Supreme Court. Referred to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 1179. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and vesting of benefits under pension and profit-sharing retirement plans; by establishing minimum funding standards; by requiring termination of insurance; and by allowing Federal income tax credits to individuals for personal retirement savings. Referred to the Committee on Finance.

By Mr. RIBICOFF:

S. 1180. A bill to discontinue price support programs for agricultural commodities beginning with the 1974 crops of such commodities. Referred to the Committee on Agriculture and Forestry.

By Mr. CRANSTON:

S. 1181. A bill for the relief of Jenelyn Ching Lim; and

S. 1182. A bill for the relief of Anna Maria Farmer. Referred to the Committee on the Judiciary.

By Mr. YOUNG:

S. 1183. A bill for the relief of Isabelle Gannat. Referred to the Committee on the Judiciary.

By Mr. ERVIN:

S. 1184. A bill to incorporate the National Federation of Music Clubs. Referred to the Committee on the Judiciary.

By Mr. CASE:

S. 1185. A bill to provide for the control of surface and underground coal mining operations which adversely affect the quality of our environment, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SCHWEIKER:

S. 1186. A bill exempting State lotteries from certain Federal prohibitions. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 1187. A bill to repeal the Military Selective Service Act. Referred to the Committee on Armed Services.

By Mr. BROCK (for himself, Mr. BEALL, Mr. BENNETT, Mr. DOLE, Mr. DOMINICK, Mr. FANNIN, and Mr. TOWER):

S. 1188. A bill to promote the utilization of improved technology in federally assisted housing projects and to increase productivity in order to meet our national housing goals, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. WEICKER:

S. 1189. A bill to promote fair, understandable, and enforceable regulations for nomination and election to Federal office, by limiting the collection and expenditure of funds, and by simplifying reporting regulations. Referred to the Committee on Rules and Administration.

By Mr. MONDALE:

S. 1190. A bill to amend the Atomic Energy Act of 1954 to permit the States concurrently with the Atomic Energy Commission to regulate the emission of radioactive effluents. Referred to the Joint Committee on Atomic Energy.

By Mr. MONDALE (for himself, Mr. WILLIAMS, Mr. RANDOLPH, Mr. BIBLE, Mr. MCGOVERN, Mr. PASTORE, Mr. BEALL, Mr. STAFFORD, Mr. HUGHES, Mr. HATHAWAY, Mr. PELL, Mr. KENNEDY, Mr. BAYH, Mr. PACKWOOD, and Mr. HUMPHREY):

S. 1191. A bill to establish a National Center on Child Abuse and Neglect, to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. COOK:

S. 1192. A bill to establish a Federal Amateur Sports Commission. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOK:

S. 1173. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966. Referred to the Committee on Commerce.

Mr. COOK. Mr. President, July 10, 1973, will be a tragic day for our Nation. On that day, the two-millionth American will die in an automobile crash. Two million Americans, needlessly dead. Two million Americans, more than twice as many people as those who have died in all the foreign wars in which our country has been involved.

The number of 2 million is not the only horrifying statistic involving automobile accidents. Another 106,342,000 Americans have been maimed or seriously injured during the past half century.

What is even more tragic is the fact that so many of these needless deaths and injuries could have been prevented. They could have been prevented through the use of one item that is already installed in close to 90 percent of the cars

on our highways. That one item is a seat belt.

Yet, despite the evidence that 10,000 to 20,000 lives could be saved each year if people used seat belts, less than 30 percent of the motor vehicle occupants buckle up.

It is apparently for that reason, the failure to buckle up, that the Department of Transportation has ordered car manufacturers to install passive restraints on all cars manufactured after August 15, 1975.

But, few people realize that the proposal to require installation of passive restraints also will completely remove the requirement for installation of seat belts in automobiles. In other words, after August 15, 1975, the only way a person will be able to purchase a car with seat belts is to install them himself at an additional cost that will probably be three times higher than the cost of mass installation.

As we all are well aware, passive restraints have not been perfected. Until they are, I feel that we should continue to require installation of seat belts in every car that is manufactured.

We already know that seat belts are effective, and we should keep them until it can be proven, beyond a doubt, that there is a device 100 percent as effective as seat belts.

Even if the technology on passive restraints proves successful enough to meet the 1975 deadline, between now and that date, as well as in the estimated 10 years before the majority of cars on the highway are so equipped, more than 200,000 lives can be saved by seat belts.

Seat belts impose no additional financial burden on motorists, whereas at the present time, the White House Office of Science and Technology reports passive restraints would add $370 to the price of a car.

Seat belts are already required to be in every car that is made. Let us keep them there until we know for sure that we have found something else that can do the job equally as well or better. It is a small price to pay for 200,000 lives.

We have also observed lately that there are ways to make people use seat belts.

In Australia, the first country to enact mandatory seat belt use legislation, seat belt use is up to more than 75 percent, and as a result, fatalities and serious injuries have decreased dramatically.

Several of our State legislatures are considering mandatory use legislation, and in one State where it is up for consideration, the publicity over the proposed law is considered to be largely responsible for a marked decrease in highway fatalities during the first 2 months of this year.

There is increasing interest in mandatory seat belt use legislation. American Motors, General Motors, and Ford are among the automobile companies endorsing proposed legislation. Many of the major insurance companies have expressed support of mandatory use legislation, and groups such as the National Safety Council and the American Association of Automotive Medicine have given it their stamp of approval.

But let us not wait for mandatory seat belt use legislation to be passed. And let us not wait for technology to catch up with rules and regulations. We know seat belts work. We do not know for sure that passive restraints will work. We cannot possibly save every automobile fatality. But if we can be assured of saving more than 200,000, is it not worth it?

That is why I am introducing legislation requiring the Department of Transportation to maintain the requirement that seat belts be installed in every automobile. It is a small effort, but one that can save thousands of our fellow citizens.

By Mr. COOK:

S. 1175. A bill to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States. Referred to the Committee on the Judiciary.

Mr. COOK. Mr. President, section 142 of title 28 of the United States Code provides that office accommodations be made available to U.S. district court judges and U.S. courts of appeals judges only at those places where regular terms of court are authorized by law to be held. This has worked a particular hardship on judges of the courts of appeals since a great deal of their time is spent away from court reviewing appellate briefs. Therefore, although there might be office space available in a Federal building close to the home of an appellate judge, if the court of appeals or district court is not authorized to sit there, the appellate judge must oftentimes travel many miles just to reach his chambers.

Thus, today I am introducing legislation which will correct the situation referred to above. The proposal that I am presenting will make it possible for judges of the U.S. courts of appeals to work near their homes when not actually sitting in court. The proposed legislation would accomplish this without any cost to the Government since it would be applicable only where Federal facilities are already available.

Mr. President, I ask unanimous consent that a copy of the proposed legislation appear in the RECORD at this point.

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

S. 1175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 142 of title 28, United States Code, is amended by adding the following sentence at the end thereof:

"The limitations and restrictions contained in this section shall not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where federal facilities are available and the judicial council of the circuit approves."

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

S. 1176. A bill to amend section 3304 (a) of title 5, United States Code, to provide for oral examinations in the competitive service. Referred to the Committee on Post Office and Civil Service.

Mr. COOK. Mr. President, on behalf of myself and the distinguished junior Senator from Wisconsin (Mr. GAYLORD NELSON) I introduce a bill to amend the law relating to the Federal competitive service. This bill would provide for oral examinations for individuals in acquiring competitive status after serving under an indefinite appointment or temporary appointment for 3 years.

Last year, our Subcommittee on Merchant Marine, of the Senate Commerce Committee, held hearings on towboat pilot licensing and found numerous cases of hardship caused by the requirement of a written examination, particularly among the Cajuns of Louisiana, some Indians and others. These men must spend extended periods of time on the river and while they are often not capable of taking the written examination, they are exceedingly capable in performing their work.

I feel strongly that since an understanding of the job and the performance thereof, rather than an understanding of the written word, if of prime importance, these men should be allowed to be examined orally. When I had a chance to question Admiral Rea, of the Coast Guard, following submission of my testimony in regard to towboat pilot licensing, Admiral Rea assured me that the Coast Guard would make every effort to insure that their regulations would not discriminate against qualified people simply because of their inability to read and write.

I ask that the bill be appropriately referred and hope that we can obtain favorable action on it.

By Mr. TALMADGE (by request):

S. 1177. A bill to continue mandatory price support for tung nuts only through the 1976 crop. Referred to the Committee on Agriculture and Forestry.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the letter transmitting the draft bill be printed in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 5, 1973.

HON. SPIRO T. AGNEW,
President of the U.S. Senate.

DEAR MR. PRESIDENT: There is enclosed for the consideration of the Congress a draft bill which would amend Section 201 of the Agricultural Act of 1949, to continue the mandatory provisions of tung support only through the 1976 crop.

Domestic use of tung oil has steadily declined from 112 million pounds in the 1949–50 marketing year to less than one-fourth that annual quantity since 1968. These reduced U.S. requirements continue to be supplied in large measure by imported tung oil. Domestic production, which reached a peak of 45 million pounds in 1958, has since declined to less than one-tenth that level because of rising costs, the frequency of serious freeze damage, and because of hurricane damage which almost wiped out the industry in 1969. Oil output in 1971 was only 100,000 pounds; the good weather crop year of 1972 will produce little more than 4 million pounds of oil.

Tung oil prices have been so low in recent years that the CCC acquires virtually all of the oil from the tung crop. CCC inventories from acquisitions reached 63 million pounds in 1967. However, small crops and steady sales into the domestic market reduced total CCC-owned inventories to less than 25 million

pounds by November 1, 1972. With CCC acquisition costs ranging from 24 to 27 cents per pound for domestically-produced oil, and domestic market prices as low as 10.50 cents, the CCC losses from sales have ranged from 9 to 18 cents per pound since 1966. The CCC sales price for tung oil is currently about 13 cents per pound against the support level for domestically-produced oil of 27.2 cents.

Tung production in the United States has proved to be uneconomic for producers and processors and holds no promise in the future except at continued heavy government cost. The domestic crops have been highly susceptible to freeze and hurricane damage. About two-thirds of the declining orchards were destroyed by Hurricane Camille in 1969. Fewer than 100 producers remain with an economic size orchard of 50 or more producing acres. Potential maximum production of tung oil in a good year is estimated now at 5 million pounds.

Accordingly, the Department of Agriculture recommends that the mandatory support requirement for tung oil be rescinded after four years. It is believed that this proposal will permit growers with currently producing orchards to plan for an orderly transition to other land uses.

Enactment of the proposed legislation would not require additional funds and will reduce future losses to the Federal Government. The reduction in losses to the Federal Government is estimated to be an average decrease in budget authority and outlays of between $500,000 and $750,000 annually beginning in fiscal year 1978. The Commodity Credit Corporation should have disposed of all stocks of tung oil by fiscal year 1978.

An identical letter and draft bill have been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

By Mr. TALMADGE:

S. 1178. A bill to establish certain qualifications for individuals appointed to the Supreme Court. Referred to the Committee on the Judiciary.

Mr. TALMADGE. Mr. President, it is high time that something was done about the Supreme Court of the United States. This message is sent to me more than any other by the citizens of my State, and I am in complete agreement with them.

I realize, Mr. President, that this is not a popular thing to say in academic circles. Our liberal scholars tell us that the Supreme Court must be immune from all public pressures. They must be given lifetime tenure, and situated in a position where they can do anything they please without being answerable to anyone. Whenever someone has the audacity to suggest that perhaps the Court may be abusing its power, these scholars tell us that the nine Justices must be kept tucked in safe and snug, in their ivory tower, at all costs. They warn us in fearful tones that if the Court is exposed to the public, it will have an adverse effect on their performance.

Well, Mr. President, I would just like to say that I do not see how they could do any worse than they are doing now. They have made a shambles out of our public school system. They have placed revolving doors on all the criminal courts of this country, and they have generally made a destructive nuisance of themselves. Sometimes I think the motto, "Equal Justice Under Law", should be removed from the front of the Supreme Court Building, and replaced with the statement, "We Know Best."

In short, Mr. President, I have no more patience with those who warn me against tampering with the Court. It has been a long time since I was in the Navy, Mr. President, but I think that if I am adrift in a leaky lifeboat, and there are nine men drilling holes in the bottom of it, I am going to start tampering with them a little.

I have taken two steps, Mr. President, and I do not regard them as drastic. I have already cosponsored a constitutional amendment introduced by Senator HARRY F. BYRD JR., of Virginia, which would provide for the periodic reconfirmation of Supreme Court Justices.

Today, I am introducing legislation to provide that no man can serve on the Supreme Court unless he has had 5 years prior service on either the highest appellate court of his State, or the Federal appellate bench. In other words, Mr President, I do not think the Supreme Court of the United States is a good place to break in new judges.

But it seems to me that it is not unreasonable to require that before a man ascends to the highest court in our land, he have a little judicial experience. I urge my colleagues to give serious and thoughtful consideration to this measure, and I hope that they will approve it.

By Mr. BENTSEN:

S. 1179. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and vesting of benefits under pension and profit-sharing retirement plans; by establishing minimum funding standards; by requiring termination of insurance; and by allowing Federal income tax credits to individuals for personal retirement savings. Referred to the Committee on Finance.

Mr. BENTSEN. Mr. President, I believe that one of the domestic issues that must receive top priority during the 93d Congress is the need to strengthen and improve America's private retirement system.

Over the past several decades tens of millions of American working men and women have confidently approached their retirement age expecting to receive a sizeable monthly pension.

The expectations of many of these workers have been fulfilled. America's private retirement system has performed very well for the millions of retired Americans presently receiving their expected retirement benefits.

But, unfortunately there are instances where workers have not received pension benefits that they have earned through years of long, hard labor. Their dreams of financial security after retirement have been shattered. Promises have been broken. In these instances America's private retirement system has not only failed to perform adequately, it has performed very poorly.

Congress must now enact legislation to assure a more consistent performance by the private retirement system and to assure that minimum standards of equity and fiduciary responsibility be established. Participants of private retirement plans must be assured that they will receive the benefits that they have worked for are entitled to receive.

Legislation should be directed toward two general goals. First, we must safeguard the pension rights which millions of American working men and women have earned. Second, efforts must be made to encourage the tens of millions of workers who do not now adequately participate in the private retirement system to independently save for their retirement.

Mr. President, I am today introducing comprehensive legislation which would amend the Internal Revenue Code for the purpose of both eliminating inadequacies in many private retirement plans as well as providing a tax incentive to encourage more people to save for their retirement. The most effective method to achieve these goals is to amend the Internal Revenue Code. The favorable tax treatment granted to pension and other retirement plans has been a major stimulus for the growth of America's retirement system.

Under current tax laws qualified pension plans receive three tax benefits. First, employers are given a tax deduction for all contributions made to a qualified plan. Second, the investment earnings of assets in the plan are tax exempt. Third, employer contributions are not taxable to the employee at the time of contribution. Rather, the income tax is deferred until the money is actually distributed to the employee after his retirement—at which time he is usually in a much lower tax bracket.

The law which has promoted the enormous growth of retirement plans—the Internal Revenue Code—is the law which can most effectively eliminate most of the inequities that have developed in many plans. The Internal Revenue Code already imposes many restrictions on private retirement plans for the specific purpose of protecting those American workers who participate in these plans. The most practical method to impose additional, but related, restrictions would be to add them to our tax law.

It is now several decades since Congress decided to promote the growth of private retirement plans through Federal tax incentives. The Internal Revenue Service which is a part of the Department of Treasury has been administering these laws since their enactment. Over the years the Internal Revenue Service has acquired the experience and expertise needed to administer the tax laws pertaining to the many complicated and diverse retirement plans currently used by private business. It only seems natural that we should utilize the experience and knowledge acquired by the Internal Revenue Service to as large an extent as possible to administer new pension regulations that Congress might enact. There is little justification to create a new Federal agency or to divide jurisdiction between two separate Federal departments where an existing agency can adequately do the job. It is imperative that Congress attempt to streamline the operations of the Federal Govern-

ment as much as possible and pension reform is no exception.

Most Americans are probably unaware of the enormous size of the private retirement system in our country. More than 30 million active workers are currently participating in the system. Over 4 million retired workers are receiving benefits. The assets in private retirement funds currently exceed $150 billion and are increasing every year.

Millions of American workers have watched employers contribute money into retirement funds on their behalf. The assets in these funds have increased in value through investment earnings. Many of these workers are now retired and receiving sizable retirement benefits. Private pension benefits when added to social security benefits can provide financial security to retired workers. This combined income can give many senior citizens an opportunity to enjoy their old age with a sense of economic well-being. It will help many senior citizens avoid becoming a financial burden on their families or communities.

There is substantial evidence that the private pension system generally works effectively. It is an excellent example of the ability of our free enterprise system to respond to a vital need—the need for the American worker to set aside a portion of his earnings for his retirement so that he will have financial security in his later years. The private retirement system has demonstrated a great degree of flexibility in its ability to offer various types of retirement programs for widely varying businesses throughout all sections of the United States.

When operating effectively, private retirement plans are an illustration of the free enterprise system at its best. When operating effectively, this system deserves the applause of all Americans for its ability to provide benefits to those retired workers who are fortunate enough to have participated in retirement plans during employment.

Unfortunately, not all private retirement plans have performed adequately. Too many retired workers have lost their anticipated pensions. Too many promised benefits have failed to become a reality.

I have received a great deal of correspondence from my constituents in Texas pointing out many of the tragic failures of the private retirement system. These persons have urged Congress to take appropriate action. During the past 2 years the Senate Labor Subcommittee has conducted a comprehensive study of this problem which has demonstrated beyond any doubt the need for immediate legislative action.

I would now like to explain some of the problems with the private retirement system which have been brought to public attention and which require prompt legislative action by the 93d Congress.

One of the fundamental problems involves the loss of pensions by workers who leave their jobs after long periods of employment but before their earned pensions become vested because of unreasonable vesting requirements. Vesting occurs when an employee receives a nonforfeitable right to the money contributed to a pension plan on his behalf. Vesting may occur after an employee works for a company a specified number of years or after an employee reaches a certain age and under some pension plans vesting is based on a combination of age and years of service. Different pension plans contain different vesting formulas but once an employee's pension rights are vested, the employee is entitled to receive his benefits at the normal retirement age even if he leaves the company before that time. Wherever an employee goes he retains an absolute right to any vested benefits he may have earned.

Unfortunately, too many examples have been brought to public attention in which employees, with many years of service with a company, have been denied absolutely all of their earned pensions because they separated from their jobs just prior to fulfilling unreasonably stringent vesting requirements. These workers have been denied benefits for which they have worked so hard. They have been denied a needed retirement income they had confidently anticipated receiving.

For example, consider the case of Stephen Duane who worked at a New Jersey warehouse for 32 years during which time he was accumulating a pension. The warehouse was closed down in 1970, and Stephen Duane lost his job. He was 51 years old at the time. However, this was 4 years short of his company's minimum pension age and as a result he lost all of his pension rights. Despite 32 years of service, during which time he was earning a pension, Stephen Duane received absolutely no pension.

The experience of Thomas Litchko, a father of five, is equally tragic. Mr. Litchko had been employed by the same Pennsylvania corporation for 20 years during which time he was earning a pension. In the spring of 1972—when Mr. Litchko was 39 years old—his company closed down and he was informed that he had no vested rights, that he was not entitled to any pension whatsoever. Under the provisions of his pension plan an employee had to reach the age of 40 before he would receive any vested rights. Thomas Litchko was only 1 year short of vesting and consequently lost 20 years worth of accumulated pensions.

Another example of unreasonable vesting requirements involves the participants of a union-administered pension plan in Chicago. Each local within this union administers its own pension plan. Under the terms of these plans a worker must remain within the same local for 20 years in order to acquire any vested rights. Sometimes a slight shift in jobs—perhaps from the loading docks to the weighing station—involves a shift in union locals and a complete loss of all pension rights for an employee with less than 20 years on the first job.

These are only three examples of the way countless numbers of American working men and women have been tragically victimized by unreasonable vesting provisions in their pension plans.

According to statistics supplied by the administration last year, the pensions of more than two-thirds of all current participants in private pension plans are not now vested. Even among older employees, whose need for vesting is more acute, many pensions are not now vested. Forty percent of participants age 45 or older, 34 percent of participants age 50 or older, and 26 percent of participants age 55 or older do not have vested pension rights.

The need is clear. Congress must establish minimum vesting standards to protect the American worker.

I propose that at the very least an employee should receive a nonforfeitable right to 25 percent of his accumulated pension after 5 years of participation in a pension plan and an additional 5 percent each following year. Once these benefits are vested, an employee will retain these rights wherever he goes.

However, a minimum vesting standard by itself will most certainly not provide a complete solution to the problems of the private retirement system. Many tragic examples have been publicized in which employees have been denied pension benefits—benefits that had actually vested—simply because the pension plan's assets were insufficient to meet all of its obligations.

This raises two related but very important problems—funding and termination insurance. I believe that there is a clear need to legislate minimum funding standards so that pension plans are accumulating sufficient assets to meet their obligations. I also believe that it is essential for all pension plans to acquire termination insurance to guarantee payment of all vested benefits in the event that a plan happens to terminate with insufficient assets to meet its obligations. There have been countless examples of pension plan failures that demonstrate this need.

Perhaps the most noted example involves the closing of the Studebaker plant in South Bend, Ind., in 1964 and the accompanying termination of its pension plan. Even though this was a liberal plan which called for the systematic funding of liabilities, there were not enough assets available to pay all claims when the plan terminated. After the assets were distributed, 4,000 vested employees between the ages of 40 and 60 had received only 15 percent of their anticipated benefits. In fact, some 2,900 employees under the age of 40, some of whom were vested, were left with absolutely nothing.

Unfortunately this was far from an isolated example.

The Senate Labor Subcommittee conducted extensive hearings in 1972 in various cities throughout the Nation to study the loss of retirement benefits as a result of plan terminations. The subcommittee uncovered a great many recent examples of pension plan terminations that resulted in the loss of vested benefits. For example, due to the termination of a company pension plan in Pennsylvania in 1972 approximately 500 vested workers are going to receive only about one-third of their entitled benefits. Another tragic example involved the termination of the pension plan of a midwestern company in 1971. As a result of this termination, 112 retirees had their benefits reduced by 62 percent while there were no remaining funds to provide benefits for the 75 vested participants, who lost absolutely everything.

If anyone questions the existence of lost benefits due to pension plan ter-

minations, he need only read the hearings of the Labor Subcommittee. Hundreds of pages of testimony by American working men and women vividly describe many of the tragic consequences of terminations. Whether 5,000 or 50,000 American working men and women suffer losses each year from terminations, no one can doubt the seriousness of the problem.

One must not forget that the termination of a retirement plan is much more than a statistic compiled for Government charts. It is much more than a list of numbers or a series of percentages. As the victims of pension plan terminations can easily attest, a termination represents a great personal tragedy. It was certainly a real tragedy for the retired worker in Minnesota who learned that he might lose his vested pension because his former employer was about to discontinue the retirement plan. This retired worker said:

> If I get a cut in my pension, I don't know what I will do. My wife has been mentally ill for 14 years and had 45 shock treatments and I am doctoring for cancer since 1954. So you can see my health and my wife's are not too good. Her medicine for a year runs over $500 not including mine, so we need all the pension fund we can get.

The experience of Olaf Anderson of Philadelphia provides another illustration of a victim of a pension plan termination. After working for the same company for 48 years he retired in 1970 and began to receive a pension of $100 a month. However, the company pension plan was terminated in 1971 and Mr. Anderson now receives no pension at all. It is interesting to note that this company provided its employees with a booklet describing the pension plan. The booklet informed the employees that you can look forward to retirement with peace of mind knowing that under the plan there will be a pension check in the mail to you from the company every month for life.

In light of such occurrences, it is not difficult to understand why so many Americans look at the private retirement system as a series of broken promises.

These examples clearly illustrate that minimum vesting standards alone provide no protection to employees when a plan terminates with insufficient assets to cover all liabilities. I believe further protection is absolutely necessary. I believe that Congress must establish minimum funding standards so that all employers make sufficient contributions to back up all vested benefits over a reasonable period of time. I also believe termination insurance is essential to insure that employees will be protected in the event that their plan does terminate before becoming fully funded. Pension reform without minimum funding standards and required insurance is really no reform at all.

The principle of termination insurance is certainly nothing new. In fact, it is well-established and has proved effective in the matter of bank and savings deposits for almost 40 years through the Federal Deposit Insurance Corporation. Reinsurance has also been applied in the housing mortgage field. Just 2 years ago Congress enacted the Security Investor Act which creates a Government-chartered corporation to guarantee stock market investors against losses stemming from financial difficulties of brokerage houses.

Some individuals will argue that enactment of this legislation would result in excessive Federal interference with the private retirement system. I strongly disagree. My proposals will not result in excessive Federal interference since a very large number of pension plans already comply with these minimum vesting and funding standards. Those plans must serve as a model for others to follow.

I strongly oppose efforts toward a Federal takeover of the private pension system. I believe that the free enterprise system can work effectively in this area but only if a proper balance is reached between the interests of employers and employees. One must not forget that the Federal Government has a longstanding policy of encouraging retirement plans by means of the tax laws. It is only fair that this Government policy be administered equitably so that employees benefit to the same extent as the employers who establish the plans.

Under my proposal, employers and employees will remain free to work out pension plan arrangements best suited to their own particular needs and requirements. These proposals will help our free enterprise system operate more effectively.

While legislation is essential to safeguard the pension rights of those Americans who now adequately participate in private retirement plans, Congress must give equal attention to two very related problems. First, there are tens of millions of American working men and women who do not now participate in any retirement plan whatsoever. Currently about one half of our nonagricultural work force—about 30 million workers—are not covered by retirement plans. Second, many employees who do, in fact, participate in retirement plans will not receive adequate benefits because employers are simply not making adequate contributions into the plan on behalf of the employees.

It is clearly discriminatory for Congress to provide special tax benefits for the 30 million participants of private retirement plans while totally denying any tax benefits to the tens of millions of workers who are not able to participate in these plans. These persons certainly deserve equitable treatment from Congress.

We must remember that when a consumer purchases an item such as a television or car a portion of the price will be used to create the pension of the electrical worker or auto worker. It is inequitable that many persons who indirectly contribute to the pension plans of others cannot even establish a tax qualified pension plan for themselves.

Congress must now provide a mechanism for the millions of workers who do not currently participate in the private retirement system to save on their own. One method to do this would be to offer individuals a Federal tax credit for a portion of their current income placed in a retirement fund. I am today proposing such a tax credit.

A tax credit is much more desirable than a deduction in this particular situation. A tax credit would provide a greater economic benefit to persons in a relatively lower income bracket than would a deduction. Those workers with lower incomes have a greater need for a monthly pension to provide financial security during their retirement years.

My proposed tax credit could be used by a great number of American workers who do not participate in employer-sponsored plans. Once these persons reach middle age and no longer have the financial responsibilities of raising a family they have a much greater opportunity to save some money—even if only a small amount. The availability of this tax credit would be an incentive to put these savings in a fund for a retirement income.

In addition, this tax credit will provide an incentive for small employers to establish pension plans. For those employers who presently cannot afford to set up a plan on their own, a tax credit for employee contributions would offer a mechanism for both the employer and employees to join together to make contributions to a plan.

Although the legislation I am introducing today contains no provisions relating to fiduciary responsibility and disclosure, I will most certainly support proposals to enact stringent fiduciary responsibility and disclosure laws. This can be most effectively accomplished by amending the Welfare and Pension Plan Disclosure Act. The bill I am introducing today contains only those provisions that I believe should be included in the Internal Revenue Code.

There is no question that any comprehensive program to alleviate the problems of the private retirement system must also focus on the areas of fiduciary responsibility and disclosure. The assets in private pension plans currently exceed $150 billion. It is essential that legislation be enacted to insure that pension plan administrators who handle these vast sums of money discharge their duties solely in the interests of the plan participants and their beneficiaries. There have been many instances of misuse and poor management of pension plan assets which demonstrate the need for stricter controls. For example, the executives of one corporation reportedly used pension plan assets to purchase real estate from the corporation at an inflated price. There have been other examples of companies that routinely dip into pension funds to make corporate acquisitions. These conflicts-of-interests in the handling of pension funds must be prohibited.

In addition, pension plans must be required to disclose more detailed information to plan participants and the Federal Government. This will enable the government to more easily discover illegal uses of pension plan assets. It is especially important that all communications to employees be presented in a manner that an average participant can easily understand. It is clearly unfair to hold an employee accountable for acts which dis-

qualify him from benefits, if he had no knowledge of these acts, or if these conditions were stated in a misleading or incomprehensible manner in plan booklets.

I will strongly support legislation which would achieve greater fiduciary responsibility and disclosure by making appropriate amendments to the Welfare and Pension Plan Disclosure Act. Since the Department of Labor is currently involved in these two areas, it would be appropriate to retain these functions within the Department of Labor.

My proposals are consistent with the recommendations of the 1971 White House Conference on Aging.

The White House Conference on Aging made the following recommendations:

Social Security benefits provide a basic protection which should continue to be improved but which can be augmented through private pension plans.

The Federal Government should take action to encourage broader coverage under private pension plans and insure receipt of benefits by workers and their survivors.

It should require early vesting and/or portability, survivor benefits, and complete disclosure of beneficiaries of eligibility and benefit provisions of the plans.

In addition, Federal requirements should assure fiduciary responsibility, minimum funding requirements and protection through reinsurance and other measures, of the promised benefits.

I would now like to explain why my proposals would more effectively remedy the problems of the private retirement system than would the Williams-Javits pension reform bill.

I am aware that about 50 of my colleagues in the Senate have cosponsored the Williams-Javits bill. I have the greatest admiration for the personal efforts made by Senators WILLIAMS and JAVITS on behalf of pension reform. I doubt there are many persons who have devoted a greater amount of their time and energy working to improve America's private retirement system.

However, prior to entering the U.S. Senate 2 years ago, I had many years of personal experience in the private pension field. On a day-to-day basis I was closely involved in the administration of pension plans and saw firsthand many of the problems that require legislative action. Based upon my experience I am unable to agree with many of the provisions of the Williams-Javits bill.

First, I firmly believe that all retirement plans, regardless of size, must comply with minimum vesting, funding and termination insurance standards. Small plans should not be exempt from these requirements. The Williams-Javits bill, on the other hand, exempts plans covering 25 or fewer participants. The loss of earned pensions by a retired worker is a personal tragedy whether the worker once participated in a small or large pension plan. Employees paticipating in small plans certainly deserve as much protection as employees in large plans. In fact, a study conducted by the Bureau of Labor Statistics indicates that small plans are the most likely to terminate. It would be inconsistent to exempt from minimum standards those plans for which the participants are most in need of protection. Thus, no exemption is given to small plans in my bill.

I am well aware of the argument that many small plans might be forced to terminate if they are subject to the minimum standards. However, this does not provide a sufficient justification to exempt small plans. In all too many instances, the owner of a small corporation will establish a pension plan which has a lengthy vesting period so that only the employer himself, and perhaps a few close associates, are likely to remain with the company long enough to be eligible for a pension. In such a situation all of the money that had previously been contributed to the plan on behalf of the employees will eventually be distributed to the employers. There is absolutely no justification for Congress to specifically permit such abuses by giving small plans an exemption from minimum vesting, funding and reinsurance standards.

Second, there is not a sufficient justification to exempt from minimum standards those union administered plans that are financed solely by contributions from union members. The Williams-Javits bill does provide such an exemption. Employees deserve the same protection for their retirement income regardless whether the plan is administered by a union and financed solely by employee contributions. Participants of such plans face the same tragedy upon loss of pension benefits.

Third, the minimum standards relating to vesting and funding should be administered by the Internal Revenue Service which is within the Department of Treasury rather than be administered by the Labor Department as would be the case under the Williams-Javits bill. The tax laws presently have standards—although very limited ones—relating to vesting and funding. Over the years the pension specialists within IRS have acquired the experience and expertise needed to administer the laws dealing with the complex and diverse types of retirement plans currently in existence. It seems only natural that this same department should be empowered—and greatly expanded—to oversee any new restrictions placed on private pension plans.

Fourth, I would allow earlier vesting than the Williams-Javits bill. I propose that an employee receive a nonforfeitable right to 25 percent of his accumulated benefits after 5 years of service under the plan. The Williams-Javits bill, on the other hand, does not require any vesting until the end of 8 years. Thus employees who leave their jobs between 5 and 8 years of service would receive at least 25 percent vesting under my bill but none under the Williams-Javits bill.

Fifth, I would establish a termination insurance program to be administered by a federally chartered nonprofit corporation. By this approach, we can utilize the experience of the private retirement system to as great an extent as possible and limit the expansion of the Federal bureaucracy. The Williams-Javits bill would create an insurance fund within the Department of Labor.

Sixth, I am proposing a tax credit for employee contributions to retirement plans. This is necessary to encourage those employees who do not now participate in the private retirement system to save for their own retirement.

In conclusion, I am today introducing legislation which will authorize the Internal Revenue Service to administer the vesting, funding and termination insurance provisions of this legislation. A Federal tax credit is also proposed to encourage retirement savings for those who do not now adequately participate in private pension plans. In addition, I will support legislation to establish strong fiduciary responsibility and disclosure laws. Enactment of these proposals will make the private retirement system much more responsive to the needs of the American people.

Enactment of such legislation must be a matter of top priority in the 93d Congress.

Mr. President, I ask unanimous consent that at this point in the RECORD there be printed a fact sheet and a summary of my major proposals as well as a more detailed analysis of my bill. In addition, I ask unanimous consent to have the text of my bill included immediately thereafter.

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

FACT SHEET, SENATOR LLOYD BENTSEN'S PROPOSED "COMPREHENSIVE PRIVATE PENSION SECURITY ACT OF 1973"

1. ADMINISTRATION AND ENFORCEMENT

Minimum vesting, funding and termination insurance requirements would be added to the Internal Revenue Code as additional requirements for favorable tax treatment.

2. MINIMUM VESTING AND ELIGIBILITY STANDARDS

At a minimum, after five years of participation in a pension plan a worker would receive a non-forfeitable right to at least 25% of the pension benefits that he has accumulated and this would be increased by at least 5% each following year.

No retirement plan would be permitted to require as a condition of eligibility to participate in the plan, a period of service longer than one year or an age greater than 30, whichever occurs later.

3. MINIMUM FUNDING STANDARDS

All pension plan obligations attributable to current service liabilities must be funded annually. In addition, past service liabilities must be funded over a 30 year period.

4. REQUIRED TERMINATION INSURANCE

All Pension plans will be required to purchase termination insurance from the *Pension Guarantee Corporation* which will be established as a non-profit corporation chartered by the Federal Government.

5. VOLUNTARY PORTABILITY

Upon a change of employment an employee will be allowed a tax-free transfer of vested pension rights from job to job but only if both the employee and employer consent to such a transfer. In addition, transfers of pension rights to qualified "individual retirement accounts" will be tax-free.

6. COVERAGE AND EXEMPTIONS

No exemption from minimum standards will be granted to small plans or union-administered plans. However, plans administered by the Federal or State and local governments will be exempt.

7. TAX CREDIT FOR EMPLOYEE CONTRIBUTIONS TO RETIREMENT PLANS

Individuals will receive a limited Federal tax credit for their own contributions to either qualified employer-sponsored retirement plans or qualified "individual retirement accounts."

SUMMARY OF MAJOR PROVISIONS—SENATOR LLOYD BENTSEN'S "COMPREHENSIVE PRIVATE PENSION SECURITY ACT OF 1973"

The "Comprehensive Private Pension Security Act" which will amend the Internal Revenue Code includes the following major provisions:

1. *Administration by the Department of Treasury*—Minimum vesting funding and termination insurance requirements for private retirement plans *would be added to the Internal Revenue Code as additional requirements for favorable tax treatment.* Thus these standards would be administered by the Department of Treasury—specifically the Internal Revenue Service.

The tax benefits granted to qualified pension and profit-sharing plans have been a major stimulus for the rapid growth of the private retirement system. In as much as federal tax laws currently impose vesting and funding standards—although very limited ones—the most practical method to impose additional standards would be to add them to our tax laws.

The Internal Revenue Service already has a staff that has been administering these laws for several decades. Pension specialists within IRS have acquired the experience and expertise needed to administer these laws which deal with the many complex and diverse types of retirement plans currently in existence.

2. *Coverage and Exemptions*—All private retirement plans regardless of the plan's size would be required to comply with the minimum standards in order to qualify for favorable tax treatment. Employees participating in small plans deserve as much protection as employees participating in large plans.

Although some small plans may have difficulty complying with the minimum standards, this does not justify granting them an exemption. In all too many cases, the owner of a small corporation will establish a pension plan which has such a lengthy vesting period that only the employer himself, and a few close associates, have any probability of remaining with the company long enough to be eligible for a pension. In such a situation all the money that had been previously contributed to the plan on behalf of the other employees will eventually be distributed to the employer and his close associates. There is absolutely no justification for Congress to specifically permit such abuses by giving small plans an exemption from minimum vesting, funding and reinsurance standards.

No exemption would be given to those retirement plans administered by employee organizations and financed exclusively by employee contributions. The participants of these plans deserve as much protection as the participants of any other plan.

Plans established by state and local governments would, however, be exempt from the minimum standards. State and local governments must be allowed to make their own determination of the best method to protect the pension rights of municipal and state employees. These are questions of state and local sovereignty and the Federal Government should not interfere.

Plans established pursuant to specific federal laws would also be exempt since they are subject to separate statutory control.

3. *Minimum Vesting and Eligibility Standards*—At a minimum, after five years of participation in a pension plan a worker would receive a nonforfeitable right to at least 25% of the pension benefits that he has accumulated and this will be increased by at least 5% each following year. Employees should be excluded from mandated vesting during the first few years of service because they have a high turnover rate and employees who leave after a very few years of service would only accumulate a very small pension anyway. Vesting after five years of participation in the plan is a reasonable starting period. Since the employer will not be required to provide nonforfeitable benefits for those employees who leave within five years, the money which would otherwise have been required to provide benefits for these persons can instead be used to provide greater benefits for employees with many years of service. Although, under this formula, an employee will not be fully vested until 20 years of participation, the money which would be required for faster vesting could instead be available for increased benefits.

This proposed vesting standard would apply retroactively for persons aged 45 or greater on the date of enactment of the Act so that these persons would receive credit for service rendered prior to the date of enactment. It is important that persons who are now middle aged be able to take advantage of this proposal in order to provide for their retirement income.

A formula that ties vesting to an employee's age should not be adopted. Such an approach would result in discrimination in hiring against older job applicants. An employer would be reluctant to hire an older applicant who would immediately vest under a formula based on an employee's age. This must be avoided since older persons already face a tremendous amount of difficulty finding a new job.

No retirement plan should be permitted to require as a condition of eligibility to participate in the plan, a period of service longer than 1 year or an age greater than 30.

4. *Minimum Funding Standards*—Minimum vesting standards are meaningless if a pension plan, as a result of inadequate funding, does not have sufficient assets to meet all obligations to plan participants. All plans must comply with minimum funding requirements so that the vested rights of employees are adequately safeguarded. Pension obligations attributable to current service liabilities must be funded annually. In addition, *past service liabilities must be funded within 30 years.* These funding standards will protect the interests of employees yet will avoid imposing an unreasonable increase in the cost of administering a pension plan.

The Secretary of Treasury will be empowered to certify which actuaries can be used to attest to the operating soundness of retirement plans. This will assure that only qualified actuaries will determine the level of contributions needed to adequately fund a plan.

The selection of actuarial assumptions and funding methods should be left to the discretion of the actuary. Federal regulations in this area are not necessary if only certified actuaries are involved in the operations of pension plans.

5. *Required Termination Insurance*—Although adequate funding requirements are an essential component of any proposal to protect pension plan participants, further protection is necessary. Pension plans might terminate before prior service liabilities (created either at the time the plan was established or on account of a benefit increase) are liquidated.

If a pension plan did terminate before prior service liabilities were liquidated, there would be insufficient assets to meet the obligations of the plan. In these circumstances the only method to adequately protect employee rights would be through a system of termination insurance.

A private non-profit corporation chartered by the Federal Government should be created to administer this insurance program. The private retirement system has the experience and expertise necessary to administer the termination insurance program.

6. *Voluntary Portability*—Upon a change of employment an employee will be allowed a tax-free transfer of vested pension rights from job to job but only if both the employee and employer consent to such a transfer. In addition, transfers of pension rights to qualified "individual retirement accounts" will be tax-free.

7. *Enforcement*—The vesting, funding and reinsurance provisions would be enforced by denying favorable tax treatment to any plan that fails to comply with these requirements. The threat of losing tax privileges will be a sufficient method to insure compliance with the requirements. Thus the minimum standards would be self-enforcing. Under current tax laws qualified pension plans receive three tax benefits. First, employers are given a tax deduction for *all* contributions made to a qualified plan. Second, the investment earnings of assets in the plan are tax-exempt. Third, employer contributions are not taxable to the employee at the time of contribution. Rather, the income tax is deferred until the money is actually distributed to the employee after his retirement—at which time he is usually in a much lower tax bracket.

8. *Transition and Variances*—Pension plans will be given three years from the date of enactment of the vesting and funding provisions to comply with these minimum standards. This will give plan administrators sufficient time to amend their plans and to make provision for the additional costs involved. Plans will be required to obtain termination insurance within one year after enactment of the requirement so that participants will be quickly protected against a possible loss of benefits due to a termination.

Because mandatory compliance with the vesting and funding provisions might cause undue hardship to the employer or participants of certain retirement plans, the Secretary of Treasury is authorized to suspend these standards in the following three *exceptional circumstances.* First, if adoption of the vesting standard at the required time will cause "substantial economic injury," the Secretary of Treasury can defer applicability of the resting provision for up to five years. Second, if an employer can demonstrate that he is unable to make a required annual contribution, the Secretary of Treasury will be authorized to waive such contribution. The resulting deficiency, however, will have to be funded within 5 years. Third, the Secretary of Treasury will be specifically required to issue special funding regulations pertaining to the funding of multi-employer plans.

9. *Tax Credit for Employee Contributions to Retirement Plans*—An employee would be entitled to a federal tax credit equal to the lesser of $375 or 25% of any employee contributions to a qualified retirement plan. This tax credit would be allowed for employee contributions to either employer-sponsored plans or "individual retirement accounts."

However, the allowable credit would be reduced to reflect any employer contributions made on behalf of any taxpayer. In addition, the allowable credit will be further reduced for those taxpayers not covered by the Social Security system or the Railroad Retirement system in order to reflect the amount of tax that would have been imposed had they been covered.

This tax credit can serve three very useful purposes. *First,* it will provide an incentive to those employees who do not now participate in retirement plans to save on their own. *Second,* those employees who participate in company retirement plans which provide inadequate benefits will be encouraged to make their own contributions to the plan so that they can receive higher benefits after retirement. *Third,* in those instances in which an employer can not afford to establish a plan on his own, a tax credit for employee contributions will encourage the employees and employer to join together to make contributions to provide a pension for employees.

The Department of the Treasury has made an estimate of the revenue that would be lost upon enactment of this tax credit. For the first full year of operation when benefits

would be largely confined to persons covered by existing contributory pension plans, the revenue loss is estimated at about $400 million. As employees who are not covered or not adequately covered by existing pension plans set up their own individual plans, the cost would rise so that by the fourth year the cost would be about $600 million.

EXPLANATION OF SENATOR LLOYD BENTSEN'S PROPOSED "COMPREHENSIVE PENSION SECURITY ACT OF 1973"

Administration by the Department of Treasury

Minimum vesting and funding standards and requirements for termination insurance would be added to the Internal Revenue Code as additional requirements for favorable tax treatment.

Under current tax laws qualified pension plans receive three tax benefits. First, employers are given a tax deduction for *all* contributions made to a qualified plan. Second, the investment earnings of assets in the plan are tax-exempt. Third. employer contributions are not taxable to the employee at the time of contribution. Rather, the income tax is *deferred* until the money is actually distributed to the employee after his retirement—at which time he is in a much lower tax bracket.

In essence the federal government has made a policy determination to subsidize the private pension system by allowing substantial tax savings. Congress recognized that these tax privileges might be abused and imposed various requirements for favorable tax treatment in an effort to safeguard the rights of lower paid company employees. For example, Section 401 (a) of the Internal Revenue Code states that to qualify for tax privileges a plan established by an employer must be for the "exclusive benefit of his employees" and it must not "discriminate in favor of employees who are officers, shareholders" or other highly compensated employees.

In addition, the Internal Revenue Service has imposed very limited vesting and funding requirements which pension or profit-sharing plans must comply with in order to qualify for favorable tax treatment.

Decades ago Congress decided to utilize federal tax laws as the instrument to encourage the expansion of pension plans and also decided to impose restrictions on how these plans could operate. The Internal Revenue Service which is a part of the Department of Treasury has been administering these laws since their enactment. Since that time the Treasury Department has acquired the experience and expertise needed to deal with the many detailed and widely varying types of retirement plans currently in existence. It seems natural that this same government department should be empowered and greatly expanded to oversee new restrictions placed on private pension plans. There is no justification to create a new federal agency or to divide jurisdiction between two separate federal departments where an existing agency can adequately do the job. It is imperative that we attempt to streamline the operations of the federal government as much as possible and pension reform is no exception.

Inasmuch as the Internal Revenue Service is presently administering the laws dealing with vesting and funding of private retirement plans, the IRS should administer any new laws in this area.

In summary, there are two major reasons why the Treasury Department should be empowered to administer new pension laws. First, the statute by which our government has encouraged the growth of pension plans—the Internal Revenue Code—should be the same statute that includes safeguards to prevent the abuse of this incentive. Second, the Internal Revenue Service has already acquired expertise and experience in administering laws dealing with retirement plans.

COVERAGES AND EXEMPTIONS

A question arises as to whether small pension plans should be subject to the same vesting and funding standards and the same requirement to purchase termination insurance as large pension plans. After careful thought, I have concluded that all private pension plans regardless of the number of participants must comply with the same minimum requirements. There should be no exemptions for small plans.

Employees in small plans deserve as much protection as employees in larger ones. The denial of earned pensions to a retired worker is a personal tragedy whether he participated in a small or large plan. In fact, there is evidence that small pension plans are usually the least well funded and the most likely to terminate. Employees participating in small plans therefore are in the greatest need of protection. It would be inconsistent to provide an exemption from minimum requirements to those plans that are in the most need of reform.

It would also be extremely difficult to select an arbitrary number and say that plans covering fewer participants are exempt. How does one justify an exemption for fewer than 10 persons as more desirable than an exemption for less than 15, 20 or 25?

In addition the selection of an arbitrary number poses problems for an employer who is below the exemption level but is contemplating raising his work force above that level. Might this exemption discourage him from hiring additional employees?

I am aware that many argue the additional costs of vesting, funding and reinsurance are particularly burdensome to small employers. They contend that many small employers might be unable to pay the additional costs which might require terminating their pension plans or that small employers who presently do not have pension plans might be discouraged from establishing one. This is not a sufficient justification to exempt small plans. If a small employer cannot afford to set up an adequate pension plan, he should not be allowed to set up any plan. A small employer who establishes a lengthy vesting requirement, for example, sometimes does so with the hope that none of his employees will remain with the company long enough to vest. In that situation all contributions—those for the employees as well as the owner—will eventually be distributed to the owner. The tax privileges were not enacted to give small employers such a windfall.

No exemption would be given to those retirement plans administered by employee organizations and financed exclusively by employee contributions. The participants in these plans deserve as much protection as the participants of any other plan.

Plans established by state and local governments, however, would be exempt from the minimum standards. State and local governments must be allowed to make their own determination of the best method to protect the pension rights of municipal and state employees. These are questions of state and local sovereignty and the Federal government should not interfere.

Likewise the various retirement plans established by the federal government would be exempt since these are regulated by other statutes.

MINIMUM ELIGIBILITY AND VESTING STANDARDS

A fundamental problem in our private pension system involves the loss of pensions by workers who leave their jobs before their pension rights become vested. Vesting occurs when an employee receives a nonforfeitable right to the money contributed to a pension plan on his behalf. Once an employee's pension rights are vested, he is entitled to receive his benefits even if he leaves the company prior to retirement. A vested employee retains his rights wherever he may go.

There have been countless examples of employees who have worked for a company for many years, but have lost all of their pension because they left their job before complying with unreasonably long vesting requirements.

For example, consider the case of Stephen Duane who worked at a New Jersey warehouse for 32 years during which time he was earning a pension. The warehouse was closed down in 1970 and Stephen Duane lost his job. He was 51 years old at the time. However, this was four years short of his company's minimum pension age and as a result he lost all of his pension rights. Despite 32 years of service, during which time he was earning a pension, Stephen Duane received absolutely no pension.

Many similar tragedies have been brought to public attention over the past two years during testimony before the Senate Labor Subcommittee. These hearings clearly demonstrate the need for Congress to require all private pension plans to adopt at least some minimum vesting standard to adequately protect the interests of plan participants.

The question naturally arises as to what vesting formula should be the minimum required. Many formulas have been suggested. Some are based solely on years of service. Others are based on a combination of age and number of years of service.

This bill proposes that a worker be entitled to 25% vesting after five years of plan participation and that this be increased by at least 5% for each year of service thereafter so that the worker has a 100% vested right to all pensions earned to that date after 20 years. This proposal has certain distinct advantages over previous ones proposed.

I would like to insert in the record a simplified chart which will illustrate my bill's vesting proposal, as compared with the Williams-Javits proposal and one which would provide a flat 100% vesting after 10 years of participation.

[In percent]

	Years of participation in the plan															
	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Proposal:																
Bentsen "5/25"	25	30	35	40	45	50	55	60	65	70	75	80	85	90	95	100
"8/30"	0	0	0	30	40	50	60	70	80	90	100	100	100	100	100	100
Flat "10/100"	0	0	0	0	0	100	100	100	100	100	100	100	100	100	100	100

As you can see, this proposal starts vesting with fewer years of service than the other two and increases at a modest rate. A worker completing at least five years of service would be assured of something when he retired. This is not guaranteed under the other proposals. Likewise, this proposal should not impose as large a cost burden on employers because it increases in modest increments. The other bill would catch or surpass my proposal after 10 years.

One of the problems is that there are large numbers of workers who complete five to ten years of service and leave before they have a chance to acquire a vested right to a pension benefit. On the other hand, short term employees should be excluded from any mandated minimum vesting schedule because of their high turnover. That is why I set five years as the starting point. This is a reasonable point of initiation.

I do not believe that full vesting after ten years is the best approach. Such a proposal provides no assistance to an employee who terminates employment prior to the ten year period. The proposal might also encourage employers to discharge workers just prior to ten years of service.

The proposals which tie vesting to age do not appear to be the best way of solving the problems experienced by workers. A formula—such as the "rule of 50" advanced by the Administration—would guarantee a worker a 50% vested right when the combination of the employee's age and the number of years of covered service equaled 50 years. It would then increase by at least 10 percent for each year thereafter. This formula would have the very undesirable side effect of fostering job discrimination against older applicants. Under this rule a 50 year old applicant would vest almost immediately while a 20 year old applicant would not vest for 15 years. This could be a substantial incentive not to hire the 50 year old applicant because the cost of funding a pension for anyone close to retirement age is comparatively high. In that older workers already face a great difficulty in finding employment, a vesting formula should not be adopted which would aggravate the problem.

My proposed vesting standard would apply retroactively for persons aged 45 or greater so that these persons would receive credit for service prior to enactment of the law. It is essential that middle aged workers can take immediate advantage of the law to provide for their retirement security.

This legislation would also provide that no retirement plan could require as a condition of eligibility to participate in the plan, a period of service longer than 1 year or an age greater than 30.

MINIMUM FUNDING STANDARDS

Although minimum vesting standards are essential, vesting alone is a meaningless gesture unless there are sufficient assets in the pension fund to guarantee payment of all vested rights. What good is full vesting to an elderly employee who is about to retire when there are simply insufficient assets to pay for his vested pension benefits? Very little good.

It is for this reason that my legislation includes minimum *funding* as well as *termination insurance* requirements. It is imperative that if Congress makes a policy determination to require minimum vesting standards, Congress must also guarantee that vesting is more than an empty promise. We must insure that pension benefits—for which American workers have worked so hard—turn out to be a reality upon retirement not a broken promise.

The term *funding* specifically refers to the accumulation of sufficient assets in a pension plan to assure the existence of adequate funds to pay pension obligations as they become due. A determination of what exactly constitutes adequate funding is a controversial question.

First, one must consider the three basic ways pension obligations arise: (1) At the end of each year of employment under a plan, an employee is entitled to pension credits for that year of work. This is known as "normal service cost." (2) When a new pension plan is created, employees may be granted credit for past service with the company. Employees are thus treated as if the plan had been in effect during the earlier years. This liability is referred to as "prior service liability." (3) When a plan is amended to provide increased benefits employees may also be granted credit for past service with the company. This is also referred to as a "prior service liability."

The Internal Revenue Service currently has minimum funding requirements. In order for a pension plan to qualify for favorable tax treatment, contributions must be made to the plan each year in an amount that equals the sum of the following two factors :(1) The benefits attributable to current employee service and (2) The interest on the unfunded accrued liability of the plan, if any. (The unfunded accrued liability refers to any past service obligations for which no contributions have been made.)

Existing IRS funding requirements are not adequate. The inherent weakness is that the employer is not required to make payments toward the *principal* of the unfunded accrued liability. Without mandatory funding of this *principal* as well as the *interest*, a pension plan may never be in financial posture to meet its pension obligations to its employees.

In fact a special President Committee on Corporate Pension Funds concluded in 1965 that present funding standards must be strengthened. This Committee specifically stated:

"Pension plans without adequate funding may turn out to be empty or only partially fulfilled promises. The purpose of concessions granted by the Federal Government to qualified pension plans is to encourage the growth of sound plans which supplement the public retirement security system. This social objective can be served only if funds adequate to pay expected benefits are accumulated. The minimum standards for funding under present law do not assure adequate funding. The setting of standards for adequate funding, therefore, becomes an important public concern."

Despite the recommendations by this Presidential Committee that unfunded liabilities be funded, many pension plans are presently underfunded. A study of over 1000 private retirement funds by the Senate Labor Subcommittee demonstrated that a significant minority of pension plans were substantially underfunded. Over ten percent of the plans had a ratio of assets to vested liabilities of 50 percent or less.

My bill provides the general rule that contributions to a plan must be sufficient to fund pension obligations attributable to present service and that initial unfunded liabilities should be liquidated in equal installments over a period not to exceed 30 years. This is the most reasonable method to protect the interests of employees and yet avoid an unreasonable increase in the cost of administering a pension plan.

Sometimes funding deficits arise because actual plan experience differs from the actuarial assumptions utilized in determining the contributions. This can arise for several reasons such as an unexpected low rate of employee turnover or an unexpectedly low rate of investment earnings of plan assets. This deficit is known as an "experience deficiency." My bill will require that an employer fund an "experience deficiency" over a term not exceeding the average remaining working life of the employees covered by the plan.

The Secretary of Treasury should be empowered to certify actuaries who will be permitted to attest to the actuarial soundness of retirement plans. However, the selection of actuarial assumptions and funding methods to be utilized in a particular plan should be left to the discretion of the actuary and should not be prescribed by a government agency. Each plan presents funding considerations peculiar to the particular provisions of the plan, the make-up of the covered participants and the financial considerations applicable to the employer or employees involved. There is no single set or range of funding methods and assumptions that are suitable for all situations. Instead, it is necessary that the funding assumptions and methods be designed to fit the particular facts at hand. This is a task properly left to a qualified actuary working within the context of the plan involved. The role of the government should be limited to prescribing a minimum schedule for funding normal service costs and past service liabilities.

Under my bill an individual insured pension plan will be considered to meet the funding requirements if it is funded by level annual premiums to retirement age for each individual participant and benefits are guaranteed by the insurance company to the extent that premiums have been paid.

REQUIRED TERMINATION INSURANCE

Although adequate funding requirements are an essential component of any proposal to protect pension plan participants, further protection is necessary. Pension plans might terminate before prior service liabilities (created either at the time the plan was established or on account of a benefit increase) are liquidated. If a pension plan did terminate before prior service liabilities were liquidated there would be insufficient assets to meet the obligations of the plan. In these circumstances the only method to adequately protect employee rights would be through a system of termination insurance.

My proposal would establish a *Pension Guarantee Corporation* which would be a non-profit membership corporation composed of all retirement plans purchasing termination insurance. The Board of Directors would be made up of five Presidential appointees plus the Secretary of Treasury (or his designee) and the Secretary of Labor (or his designee).

Each pension plan will be required to pay an annual premium to the Pension Guarantee Corporation which will be a percentage of the plan's *unfunded vested liabilities*.

The bill specifically sets the premium rate for the first three years of operation of the Pension Guarantee Corporation. It will be 0.2 percent of unfunded vested liabilities in most cases but could go as high as 0.4 percent in a few instances.

After three years, the Pension Guarantee Corporation will permit the Corporation to set differential rates based upon the risk of plan termination.

If the pension guarantee fund should run short on funds, the Corporation would be able to impose special assessments upon its members and, in addition, borrow money from the United States Treasury.

COSTS OF VESTING, FUNDING, AND REINSURANCE

I am well aware that the costs to employers or unions of providing a pension plan will be increased for all plans to the extent that the plan does not already satisfy this bill's proposed minimum standards. However, this is a small price to pay to guarantee that the tragic losses of pension benefits which happen too frequently do not continue to occur. It must be remembered that pensions have been earned through years of employment—they are not a gift—and we must assure that these pensions do not disappear. It must be emphasized that the costs of vesting, funding and termination insurance are

costs to the employer or union and *not to the federal government.*

PORTABILITY

Portability refers to the process by which an employee is permitted to transfer his earned pension rights from job to job and at the end of his career be able to convert all such benefits into a final benefit amount reflecting all of his prior service.

Upon a change of employment, I believe that an employee should be allowed a tax-free transfer of vested pension rights from job to job but only if both the employees and employer consent to such transfer. In addition, transfers of pension rights to qualified "individual retirement accounts" should be tax-free.

ENFORCEMENT

The vesting, funding and insurance provisions would be enforced by denying favorable tax treatment to any plan that fails to comply with these requirements. The threat of losing tax privileges will be a sufficient method to insure compliance with the requirements. Thus these minimum standards would be self-enforcing.

Under current tax laws qualified pension plans receive three tax benefits. First, employers are given a tax deduction for all contributions made to a qualified plan. Second, the investment earnings of assets in the plan are tax-exempt. Third, employer contributions are not taxable to the employee at the time of contribution. Rather, the income tax is *deferred* until the money is actually distributed to the employee after his retirement—at which time he is in a much lower tax bracket.

TRANSITION RULES AND VARIANCES

Pension plans will be given three years from the date of enactment of the vesting and funding provisions to comply with these minimum standards. This will give plan administrators sufficient time to amend their plans and to make provision for the additional costs involved. Plans will be required to obtain termination insurance within one year after enactment of the requirement so that participants will be quickly protected against a possible loss of benefits due to a termination.

Because mandatory compliance with the vesting and funding provisions might cause undue hardship to the employer or participants of certain retirement plans, the Secretary of Treasury is authorized to suspend these standards in the following three exceptional circumstances. *First*, if adoption of the vesting standard at the required time will cause "substantial economic injury" the Secretary of Treasury can defer applicability of the vesting provision for up to five years. *Second*, if an employer can demonstrate that he is unable to make a required annual contribution, the Secretary of Treasury will be authorized to waive such contribution. The resulting deficiency, however, will have to be funded within 5 years. *Third*, the Secretary of Treasury will be specifically required to issue special funding regulations pertaining to the funding of multi-employer plans. A multi-employer plan refers to a collectively bargained pension plan to which a substantial number of unaffiliated employers are required to contribute and which covers a substantial portion of the industry. Even if some of the participating employers should suffer financial setbacks, a multi-employer pension fund would still remain solvent. All multi-employer plans must have funding schedules which give reasonable assurances that the plan's benefit commitments will be met and which reflect the particular circumstances affecting the plan, industry, or other pertinent factors.

TAX CREDIT FOR EMPLOYEE CONTRIBUTIONS

While legislation is essential to safeguard the pension rights of those Americans who now adequately participate in private retirement plans Congress must give equal attention to two very related problems. First, there are tens of millions of American working men and women who do not now participate in any retirement plan whatsoever. Currently about one half of our nonagricultural work force—about 30 million workers—are not covered by retirement plans. Second, many employees who do, in fact, participate in retirement plans will not receive adequate benefits because employers are simply not making adequate contributions into the plan on behalf of the employees.

It is clearly discriminatory for Congress to provide special tax benefits for the 30 million Americans who do participate in private retirement plans while *totally denying* any tax benefits to the tens of millions of workers who do not now participate in these plans. These persons certainly deserve equitable treatment from Congress.

We must remember that when a consumer purchases an item such as a television or car, a portion of the price will be used to create the pension of the electrical worker or auto worker. It is inequitable that many persons who indirectly contribute to the pension plans of others cannot even establish a tax-qualified pension plan for themselves.

Congress must now provide a mechanism for the millions of workers who do not currently participate in the private retirement system to save on their own. One method to do this would be to offer individuals a federal tax credit for a portion of their current income placed into an individual retirement fund. I am proposing such a tax credit.

Under my proposal, a credit would be allowed for either an employee contribution to a qualified employer-established plan or an individual's contribution to his own qualified "individual retirement account."

The amount allowable as a tax credit each year could not exceed the lesser of $375 or 25% of the amount of the individual's contribution. Under this formula, an individual who contributes $1500 would be eligible for the maximum credit of $375.

However, the maximum allowable credit would be reduced by 25% of any payments made by the individual's employer to a qualified pension plan on behalf of the individual. For this purpose, an individual would be permitted to assume that employer contributions on his behalf are 7% of his earned income. He could show, however, that a lesser amount had been contributed on his behalf.

Since 7% of $21,286 equals $1500, a participant in an employer-established plan who has an earned income equal to or greater than $21,286 would not be able to take advantage of the tax credit.

In addition, the allowable credit would be further reduced for those persons who receive income which was not covered by the social security system or the railroad retirement system. The allowable credit would be reduced by 25% of the tax that would have been imposed on such income had the income been subject to the Federal Insurance Contribution Act. This reflects the fact that FICA taxes are not deductible.

A new Section 409 would be added to the Internal Revenue Code which would provide favorable tax treatment to the money contributed to a qualified *"individual retiremen account."* The investment earnings of such fund would be tax-exempt.

The account could be held by a bank, insurance company, trustee or custodian. The funds in these accounts could be invested in a broad range of assets including stocks, bonds, bank accounts, and insurance or annuity contracts. Participants in employer-sponsored plans could make their personal contributions to these plans. It is anticipated that banks, insurance companies and mutual funds would provide prototype plans for these accounts.

My proposal would strongly discourage the distribution of the assets in the retirement plan before the recipient reaches age 59½. A tax penalty equal to 30% of the amount of any premature distribution of assets would be imposed unless the recipient or a dependent had serious and costly medical problems. The penalty tax would be in addition to the regular tax imposed on such distribution.

A credit for employee contributions to qualified retirement plans is much more desirable than a deduction. A tax credit would provide a greater economic benefit than a deduction for those who are in a relatively lower income bracket. I believe that my proposed tax credit could be used by many American workers. Once these persons reach middle age and no longer have the financial responsibilities of raising a family they have a much greater opportunity to save some money—even if only a small amount. The availability of this tax credit would be an incentive to put these savings in a fund for a retirement income.

In addition, this tax credit will be an incentive for small employers to establish pension plans. For those employers who presently cannot afford to set up a plan on their own, a tax credit for employee contributions would offer a mechanism for both the employer and employees to join together to make contributions to a plan.

The Department of the Treasury has made an estimate of the revenue that would be lost upon enactment of this tax credit. For the first full year of operation when benefits would be largely confined to persons covered by existing contributory pension plans, the revenue loss is estimated at about $400 million. As employees who are not covered or not adequately covered by existing pension plans set up their own individual plans, the cost would rise so that by the fourth year the cost would be about $600 million.

FIDUCIARY RESPONSIBILITY AND DISCLOSURE

Although my bill does not include any provisions relating to fiduciary responsibility and disclosure, I will fully support legislation to enact strong fiduciary responsibility and disclosure laws. This can most effectively be done by amending the Welfare and Pension Plan Disclosure Act. My bill only includes those provisions which I believe should be included in the Internal Revenue Code.

The assets in private retirement plans currently exceed $150 billion. It is essential that those who administer these funds do so in a manner which is in the best interests of all participants of the plans. In order to insure that this is achieved, strict rules of conduct should be enacted governing the conduct of trustees and fiduciaries who administer these plans. Fiduciaries must be required to discharge their duties solely in the interests of the participants and their beneficiaries. Conflicts of interest must be prohibited. For example, a fiduciary should be prohibited from dealing with pension assets for his own account and a fiduciary should be prohibited from loaning any money to a person who is a party-in-interest. The fiduciary should be held personally liable for his breach of any responsibility owed to the fund, and must reimburse the fund for any loss resulting from such a breach. He must also pay over to the fund any loss resulting from such a breach. He must also pay over to the fund any personal profit realized through use of fund assets.

Pension plans most also be required to disclose more detailed information to plan participants and the federal government. This will help the government find out about any misuse of the assets of retirement plans. In addition pension plan administrators will be required to furnish or make available to participants an explanation of benefits due and the circumstances under which an employee may be disqualified from receiving benefits. It is essential that all communications to employees must be presented in a manner that an average participant can un-

derstand intelligently. It is grossly unfair to hold an employee accountable for acts which disqualify him from benefits, if he had no knowledge of these acts, or if these conditions were stated in a misleading or incomprehensible manner in plan booklets.

I will strongly support legislation that establishes strong fiduciary responsibility and disclosure laws by amending the Welfare and Pension Plan Disclosure Act.

S. 1179

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 "Comprehensive Private Pension Security Act of 1973".

TITLE I—FINDINGS; PURPOSE

FINDINGS

SEC. 101. (a) The Congress finds that—

(1) the growth in size, scope, and numbers of private retirement plans in recent years has been rapid and substantial;

(2) part of this growth is attributable to the favorable tax treatment offered to these plans;

(3) the continued well-being and security of millions of employees and their dependents are directly affected by these plans;

(4) a significant number of these employee benefit plans have failed to protect adequately the interests of plan participants;

(5) many employees with long years of employment with a company are being denied benefits due to the existence of unreasonable vesting provisions in such plans;

(6) due to inadequate funding of many private retirement plans, such plans have insufficient assets to pay all earned benefits;

(7) due to the termination of plans before requisite funds have been accumulated, employees and their dependents have been deprived of anticipated benefits; and

(8) in order to provide for the uniform treatment of expenditures bearing on the free flow of commerce, to protect the general taxing power of the United States, and to protect the interests of employees and their beneficiaries, it is desirable to amend the Internal Revenue Code of 1954 to require, as a condition of qualification under section 401 of that Code, minimum vesting, funding, and termination insurance requirements for pension, profit sharing, and deferred compensation plans.

(b) The Congress further finds that, despite the growth of retirement benefit plans, about one-half of the full-time private nonagricultural adult work force is not covered by existing retirement plans and that it is therefore desirable to enact Federal tax incentives to encourage those workers who are not presently participating in employee benefit plans to save independently for their retirement.

PURPOSES

SEC. 102. It is the purpose of this Act—

(1) to protect interstate commerce, the Federal taxing power, and the interests of participants in private pension plans and their beneficiaries by strengthening and improving such plans by requiring them (A) to adopt reasonable vesting standards, (B) to meet minimum standards of funding, and (C) to protect the vested rights of participants against losses due to plan termination through the establishment of pension plan liability insurance; and

(2) to offer a Federal tax incentive to encourage employees to save independently for their own retirement.

TITLE II—OFFICE OF PENSION PLAN ADMINISTRATION

ESTABLISHMENT OF OFFICE

SEC. 201. (a) There is established within the Internal Revenue Service an office to be known as the Office of Pension Plan Administration (hereinafter referred to as the "Office"). The Office shall be under the supervision and direction of an Assistant Commissioner of the Internal Revenue Service.

(b) Section 5109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The position held by the employee appointed under section 201(a) of the Comprehensive Private Pension Security Act of 1973 is classified at GS–18, and is in addition to the number of positions authorized by section 5108(a) of this title."

DUTIES; TRANSFER OF FUNCTIONS

SEC. 202. (a) The Office shall carry out all functions of the Internal Revenue Service with respect to pension, profit-sharing, and deferred compensation plans.

(b) All functions of the Secretary of the Treasury which are carried out through the Pension Trust Branch of the Internal Revenue Service are transferred to the Assistant Commissioner of the Internal Revenue Service who is head of the Office.

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE

AMENDMENT OF 1954 CODE

SEC. 301. (a) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title a reference is made (by way of amendment, repeal, or otherwise) to a section, chapter, or other provision, the reference shall be considered to be made to a section, chapter, or other provision of the Internal Revenue Code of 1954.

(b) Technical and Conforming Changes.—The Secretary of the Treasury or his delegate shall, as soon as practical (but in any event not later than 90 days after the date of enactment of this Act) submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this title.

Subtitle A—QUALIFIED TRUSTS

MINIMUM STANDARDS RELATING TO PARTICIPANT ELIGIBILITY

SEC. 321. PERIOD OF SERVICE OR AGE RETIREMENT.—Section 401 (a) (relating to requirements for qualification) is amended by adding at the end thereof the following new paragraph:

"(11) Except in the case of a plan benefiting owner-employees to which subsection (d) applies, a trust shall not constitute a qualified trust under this section if the plan of which such trust is a part requires, as a condition of participation, that an employee—

"(A) have a period of service with the employer in excess of 1 year, or

"(B) have attained an age in excess of 30 years whichever occurs later."

MINIMUM STANDARDS RELATING TO VESTING

SEC. 322. (a) VESTING QUALIFICATION.—Section 401(a) (relating to requirements for qualification) is amended by adding at the end thereof the following:

"(12) (A) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that an employee's rights to at least the percentage specified below of his accrued benefits are nonforfeitable:

"Years of plan participation:	Minimum percentage of accrued benefits that must be nonforfeitable
Less than 5	0
5	25
6	30
7	35
8	40
9	45
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 and over	100

For purposes of this subparagraph, service rendered prior to the establishment of a plan may be disregarded in applying the table contained in this paragraph, except that any participant in that plan who has attained 45 years of age on the effective date of this paragraph shall receive credit for accrued benefits attributable to service rendered prior to that date.

"(B) The Secretary or his delegate may defer, with respect to a plan in existence on the date of enactment of the Comprehensive Private Pension Security Act of 1973, in whole or in part, applicability of the requirements of subparagraph (A) for a period not to exceed 5 years from the effective date of this paragraph upon a showing that compliance with the vesting requirements on the part of the plan would result in increasing the cost of the employer or employers contributing to the plan to such an extent that substantial economic injury would be caused to such employer or employers and to the interests of the participants or beneficiaries in the plan. For purposes of this subparagraph the term 'substantial economic injury' includes, but is not limited to, a showing that (i) a substantial risk to the capability of voluntarily continuing the plan exists, (ii) the plan will be unable to discharge its existing contractual obligations for benefits, (iii) a substantial curtailment of pension or other benefit levels or the levels of employees' compensation would result, or (iv) there will be an adverse effect on the levels of employment with respect to the work force employed by the employer or employers contributing to the plan.

"(C) For purposes of applying the schedule in subparagraph (A), the term 'years of plan participation' means all years of participation (whether or not continuous), except that a plan may provide that—

"(i) 2 of the 5 years required to qualify for the 25 percent vested right under subparagraph (A) shall be continuous under standards prescribed by the Secretary or his delegate,

"(ii) service by a participant prior to the age of 30 may be ignored in determining eligibility for a vested right under this section, unless such participant or an employer has contributed to the plan with respect to such service, and

"(iii) if an employee terminates service and then is initially re-employed on a date occurring more than 10 years after the last date on which his service was terminated, each period of service shall be treated separately for purposes of applying the plan's vesting provisions.

"(13) If a plan is a class year plan, then a trust forming part of the plan shall not constitute a qualified trust under this section unless the plan provides that the participant shall acquire a nonforfeitable right to 100 percent of the employer's constribution on his behalf with respect to any given year, not later than the end of the fifth year following the year for which such contribution was made. For the purposes of this paragraph, the term 'class year plan' means a profit-sharing-retirement plan which provides for the separate vesting of each annual contribution made by the employer on behalf of a participant.

"(14) A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that an employee's interest thereunder shall not be capable of assignment or alienation and the plan does not confer upon an employee, personal representative, or dependent, or any

other person, any right or interest capable of being assigned or otherwise alienated.

"(15) A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that an employee's nonforfeitable interest in such plan may be distributed commencing no later than the normal retirement age in the same form as retirement benefits payable to employees who remain until normal retirement age. For the purposes of this subparagraph, 'normal retirement age' means the normal retirement age, specified under the plan but not older than age 65, or in the absence of plan provisions specifying the normal retirement age, such age shall be age 65."

FUNDING REQUIREMENT

SEC. 323. Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsection (j) as (n) and inserting after subsection (i) the following new subsections:

"(j)(1) FUNDING REQUIREMENTS.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part requires that the employer and if applicable, the employees, make annual or more frequent contributions to the plan in amounts which are sufficient—

"(A) to meet all normal service costs;

"(B) in the case of any initial unfunded liability resulting from the establishment or amendment of the plan, to fund such liability, no slower than ratably, over a term not exceeding 30 years from the date of such establishment or amendment; and

"(C) in the case of an experience deficiency, to remove such deficiency, no slower than ratably, over a term not exceeding the average remaining working life of the employees covered by the plan determined as of the date such deficiency was determined. In the case of a plan which was established prior to the effective date of this paragraph, the 30-year period referred to in subparagraph (B) may, at the option of the employer, be measured from such effective date with respect to any initial unfunded liability existing on such date.

"(2) A plan shall be considered to meet the requirements of paragraph (1) only if, within 6 months after the effective date of regulations promulgated by the Secretary or his delegate to implement this paragraph (but in no event more than 12 months after the effective date of this paragraph or within six months after the date of plan establishment, whichever is later), the plan administrator submits a report of an actuary stating—

"(A) the estimated cost of benefits in respect of service for the first plan year following the effective date of this paragraph and the formula for computing such cost in subsequent years up to the date of the following report;

"(B) the initial unfunded liability, if any, for benefits under the plan as of the effective date of this paragraph, or, if later, as of the date such plan is established;

"(C) the payments required to remove such unfunded liability and experience deficiencies in accordance with this paragraph;

"(D) the actuarial assumptions used and the basis for using such actuarial assumptions; and

"(E) such other pertinent actuarial information as may be required by the Secretary or his delegate.

The Secretary or his delegate shall prescribe rules and regulations establishing standards and qualifications for persons responsible for performing actuarial services in connection with this subsection and, upon application of any such person, certify whether such person meets the standards and qualifications prescribed.

"(3) A plan shall not meet the requirements of paragraph (1) unless the administrator of the plan causes it to be reviewed not less than once every 5 years by an actuary certified under paragraph (2) and submits a report to the Secretary or his delegate stating—

"(A) the estimated cost of benefits in respect of service in the next succeeding 5-year period and the formula for computing such cost for such subsequent 5-year period;

"(B) the surplus or the experience deficiency in the plan after making allowance for the present value of all payments required to be made in the future by the employer as determined by previous reports;

"(C) the payments which will remove any such experience deficiency over the term specified in paragraph (1)(C) of this subsection;

"(D) the actuarial assumptions used and the basis for using such actuarial assumptions; and

"(E) such other pertinent actuarial information as the Secretary or his delegate may require.

"(4) Where a plan is funded exclusively by the purchase of individual insurance contracts which require level annual premium payments to be paid extending not beyond the retirement age for each individual participant in the plan and commencing with the participant's entry into the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective), and benefits provided by the plan are equal to the benefits provided under each contract, and are guaranteed by the insurance carrier to the extent premiums have been paid, such plan shall be considered to meet the requirements of this subsection.

"(5) The Secretary or his delegate may exempt any plan, in whole or in part, from the requirements of paragraphs (2) and (3) where he finds the filing of the reports required thereunder to be unnecessary.

"(6) Notwithstanding any other provision of this subsection, a multi-employer plan, as defined in regulations prescribed by the Secretary or his delegate, shall be considered to meet the requirements of this subsection if it requires the employers to make contributions according to a funding schedule approved by the Secretary or his delegate. Any such plan must give reasonable assurances that the plan's benefit commitments will be met and must reflect the particular circumstances affecting the plan, industry, or other pertinent factors.

"(7) For the purposes of this subsection, the term 'experience deficiency' with respect to a pension plan means any actuarial deficit, determined at the time of a review of the plan, that is attributable to factors other than the existence of an initial unfunded liability or the failure of any employer to make any contribution required by the terms of the plan or by law.

"(k) WAIVER OF FUNDING REQUIREMENT.—If, upon application and notice to affected or interested parties by the plan administrator, the Secretary or his delegate determines that any employer or employers (and, if appropriate, the employees) are unable to make annual contributions to the plan in compliance with the funding requirements of subsection (j), the Secretary or his delegate may waive the annual contribution otherwise required to be paid, and prescribe an additional period of not more than 5 years for the amortization of such annual funding deficiency. If the funding deficiency is removed on at least a ratable basis over such period, the plan shall be considered to have met the requirement of subsection (j) for such period. No waiver shall be granted unless the Secretary or his delegate is satisfied after a review of the financial condition of the plan and other related matters that such waiver—

"(1) will not adversely affect the interest of participants or beneficiaries of such plan; and

"(2) will not impair the capability of the Pension Guarantee Corporation equitably to underwrite vested benefit losses.

If any plan has been granted 5 or more consecutive waivers under this subsection, the Secretary or his delegate shall take such action under section 408 as he deems appropriate.

"(l) PLAN TERMINATION.—A trust shall constitute a qualified trust under this section only if the plan of which the trust is a part provides that, upon its complete termination or substantial termination (as determined by the Secretary or his delegate), all assets of the plan will be applied—

"(1) first, to refund to retired and nonretired participants in the plan the amount of contributions made by them;

"(2) second, to provide benefits to participants (or their survivors) in the plan who have retired prior to the date of such termination and have been receiving benefits under the plan;

"(3) third, to provide benefits to those participants (or their survivors) in the plan who, on the date of such termination, had the right to retire and receive benefits under the plan;

"(4) fourth, to provide benefits to those participants in the plan who acquired vested rights under the plan prior to termination of the plan but had not reached normal retirement age on the date of such termination; and

"(5) fifth, to provide benefits to any other participants in the plan who are entitled to benefits under the plan pursuant to the requirements of subsection (a)(7) of this section.

This subsection shall not apply to assets (including insurance contracts) which have been allocated to specific employees or to assets which, under provisions of the plan adopted pursuant to regulations prescribed by the Secretary or his delegate to preclude the discrimination prohibited by subsection (a)(4), may not be used for designated employees in the event of early termination."

ENFORCEMENT OF FUNDING REQUIREMENTS

SEC. 324. Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new section:

"Sec. 408. Failure to make required contributions.

"Whenever the Secretary or his delegate determines that the employer or other person responsible for the administration of a plan which has elected to be treated as a plan which meets the requirements of section 401 or 404(a)(2) fails to make the contributions required by section 401(j), (absent a waiver under section 401(k)) the Secretary or his delegate may—

"(1) order that the plan be terminated if, after notice and opportunity for a hearing, such action is considered necessary to protect the interests of participants,

"(2) require that any deductions attributable to the maintenance and operation of a qualified pension or profit-sharing plan for the 5 taxable years immediately preceding the year of termination be included in the income of the employer in the year of termination, or

"(3) take such other action as he deems consistent with the purposes of such section."

INSURANCE REQUIREMENTS

SEC. 325. Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subsection:

"(m) INSURANCE REQUIREMENT.—A trust forming part of a plan shall constitute a qualified trust under this section only so long as the unfunded vested liabilities (whether incurred before the date of enactment of the Comprehensive Private Pension Security Act of 1973 or later) of that trust

are insured by the Pension Guarantee Corporation."

CERTAIN TRANSFERS NOT CONSIDERED DISTRIBUTIONS

SEC. 326. Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by redesignating paragraphs (3) through (5) as (4) through (6), and by inserting after paragraph (2) the following new paragraph:

"(3) CERTAIN TRANSFERS.—For purposes of this section, a transfer of any amount representing an employee's interest in an employee's trust described in section 401(a) which is exempt from tax under section 501 (a), or in an individual retirement account described in section 409, shall not be considered a distribution under paragraph (1) if the transfer is made in connection with a change of employment by the employee and the transfer is made from a trust under his former employer, or from his individual retirement account, to—

"(A) a trust under his new employer, or

"(B) to an individual retirement account of the taxpayer."

TECHNICAL AMENDMENTS

SEC. 327. (a) Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subsection:

"(n) Certain Provisions Inapplicable to Government Plans.—The provisions of paragraphs (ii) through (15) of subsection (a) and of subsections (j), (k), (l), and (m) shall not apply to any plan operated by the Government of the United States or of any State or political subdivision thereof."

(b) Section 404(a)(2) (relating to employee's annuities) is amended by—

(1) inserting "(12), (13), (14), and (15)," after "section 401(a) (3), (4), (5), (6), (7), and (8),"; and

(2) inserting "(j), (l), and (m)," after "section 401(d) (other than paragraph (1)),".

(c) Section 805(d)(1)(C) (relating to pension plan reserves defined) is amended by striking out "section 401(a) (3), (4), (5), (6), (7), and (8)" and inserting "section 401 (a) (other than paragraphs (1), (2), (9), (10), and (11)), and subsections (j), (l), and (m) of section 401".

EFFECTIVE DATE

SEC. 328. The amendments made by this subtitle shall apply with respect to taxable years beginning more than 3 years after the date of enactment of this Act, except that the amendment made by section 325 shall apply with respect to taxable years beginning more than 1 year after the date of enactment of this Act.

SUBTITLE B—RETIREMENT SAVINGS CREDIT

CREDIT ALLOWED

SEC. 341. (a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

"Sec. 42. Retirement Savings.

"(a) CREDIT ALLOWED.—There shall be allowed, as a credit against the tax imposed by this chapter, amounts paid during the taxable year by an individual (other than as an employer)—

"(1) to a qualified individual retirement account (as defined in section 409(a)).

"(2) to an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(3) for the purchase of an annuity contract under a plan which meets the requirements of section 404(a)(2).

"(4) to or under a qualified bond purchase plan (as defined in section 405), or

"(5) for the purchase of an annuity contract described in section 403(b).

"(b) LIMITATION.—

"(1) GENERAL RULE.—The amount allowable as a credit under subsection (a) to an individual for any taxable year shall not exceed the lesser of $375 or 25 percentum of the amount described in subsection (a) paid during such year.

"(2) REDUCTION ON ACCOUNT OF EMPLOYER OR OWNER-EMPLOYEE CONTRIBUTIONS.—The amount computed under paragraph (1) of this subsection shall be reduced by—

"(A) 25 percentum of the amount of any contributions made by the taxpayer as an owner-employee during his taxable year, and

"(B) 25 percentum of the amount (determined in accordance with regulations prescribed by the Secretary or his delegate) of any contributions made on behalf of the taxpayer by his employer during the taxpayer's taxable year—

"(i) to an employee's trust described in section 401(a) which is exempt from tax under section 501(a),

"(ii) for the purchase of an annuity contract under a plan which meets the requirements of section 404(a)(2),

"(iii) to or under a qualified bond purchase plan (as defined in section 405), or

"(iv) for the purchase of an annuity contract described in section 403(b).

In accordance with regulations prescribed by the Secretary or his delegate, the amount of any contributions described in the preceding sentence made on behalf of a taxpayer by his employer during his taxable year may, at the option of the taxpayer, be considered to be 7 percent of his earned income for such taxable year attributable to the performance of personal services for such employer.

"(3) REDUCTION APPLICABLE TO CERTAIN PUBLIC AND OTHER EMPLOYEES.—If a taxpayer has earned income for the taxable year which is not subject to tax under chapter 2, 21, or 22, the amounts which may be taken into account in determining the allowable credit under subsection (a) shall be the amounts described in such subsection reduced by an amount equal to 25 percent of the tax (or the increase in the tax) that would be imposed upon such income under section 3101 for such taxable year if the personal services from the performance of which such income is derived constituted employment (within the meaning of section 3121(b)).

"(4) MARRIED INDIVIDUALS.—The limitation provided by this subsection in the case of a married individual shall be determined without regard to the earned income of his spouse and without regard to contributions described in paragraph (2) made on behalf of his spouse. For purposes of this subsection, the earned income of a married individual shall be determined without regard to community property laws.

"(5) EARNED INCOME DEFINED.—For purposes of this subsection, the term 'earned income' has the meaning assigned to such term in—

"(A) in the case of a self-employed individual, section 401(c)(2), and

"(B) in the case of an individual who is not a self-employed individual, section 911 (b)."

INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 342. Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new section:

"Sec. 409. Individual Retirement Accounts

"(a) REQUIREMENTS FOR QUALIFICATION.—A trust, custodial account, annuity contract, or other similar arrangement created or organized in the United States shall constitute a qualified individual retirement account under this section only if—

"(1) it is maintained for the purpose of distribution to the individual who established it, his spouse, or his beneficiaries, the contributions thereto and the income therefrom;

"(2) except as otherwise provided in subsections (b) (1) and (2), contributions thereto during any taxable year may not exceed the lesser of 20 percent of earned income (as defined in section 42(b)(5)) or $1,500 for such taxable year and may be made only by the individual who established it or his spouse;

"(3) except as otherwise provided in subsection (b)(3), the assets thereof are not commingled with the other property of the individual who established it or his spouse, and the contributions are used to purchase an annuity meeting the requirements of section 401(g), or the contributions are held in trust, by or in the custody of, a bank (as defined in section 401(d)(1)), a credit union described in section 501(c)(14), or any other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which he will hold or have custody of such assets will be consistent with the requirements of this paragraph;

"(4) except as otherwise provided in subsection (b)(1), under the plan or the other governing instrument, no benefits may be paid to the individual who established it before he attains the age of 59½ years unless (in accordance with regulations prescribed by the Secretary or his delegate) he, his spouse, or one of his dependents (as defined in section 152) becomes seriously ill and he is required to spend a substantial sum of money in medical bills and this expenditure poses a severe financial hardship;

"(5) under the plan or other governing instrument the entire interest of the individual who established it will be distributed to him not later than his taxable year in which he attains the age of 70½ years, or will be distributed, commencing not later than such taxable year, in accordance with regulations prescribed by the Secretary or his delegate, over—

"(A) the life of such individual or the lives of such individual and his spouse, or

"(B) a period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse; and

"(6) if contributions thereto may be used for the purchase of annuity or similar contracts issued by a life insurance company, under the plan or other governing instrument, any refunds of premiums and any amounts in the nature of a dividend or similar distribution must be held by the issuer of such contract and may be applied only toward the payment of future premiums or to the purchase of additional similar benefits.

"(b) SPECIAL RULES.—

"(1) TRANSFER OF ASSETS.—Subsections (a)(2) and (a)(4) shall not be applied to prevent the contribution of amounts to which section 72(p) would otherwise apply to qualified individual retirement account for the benefit of the same taxpayer or the same taxpayer and his spouse.

"(2) LIMITATION ON CONTRIBUTIONS.—Under regulations prescribed by the Secretary or his delegate, rules similar to the rules provided in paragraphs (2) and (3) of section 401(e) (relating to excess contributions on behalf of owner-employees) are to apply to contributions to a qualified individual retirement account to the extent necessary to carry out the purposes of this section.

"(3) USE OF COMMON TRUST FUNDS.—Subsection (a)(3) shall not be applied to prevent the investment of the assets of a qualified individual retirement account in a common trust fund.

"(c) TREATMENT AS QUALIFIED TRUST BENEFITING OWNER-EMPLOYEE.—For purposes of subchapter F and subtitle F, a qualified individual retirement account shall be treated as a trust described in section 401(a) which is part of a plan providing contributions or benefits for employees some or all of whom are owner-employees as defined in section 401(c)(3)), the individual who established such qualified individual retirement account

and his spouse shall be treated as owner-employees for whom such contributions or benefits are provided, and the person holding or having custody of the assets of such qualified individual retirement account shall be treated as the trustee of such trust.

"(d) TAXABILITY OF BENEFICIARY OF QUALIFIED INDIVIDUAL RETIREMENT ACCOUNT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount actually distributed or made available to any beneficiary by a qualified individual retirement account shall be taxable to him, in the year in which so distributed or made available under section 72 (relating to annuities).

"(2) RECONTRIBUTED AMOUNTS.—Paragraph (1) shall not apply to any amount distributed or made available by a qualified individual retirement account to the individual who established such account to the extent that, within 60 days after the day on which such amount is distributed or made available, such amount is contributed to a qualified individual retirement account for the benefit of such individual or such individual and his spouse.

"(3) APPLICABILITY OF SECTION 72 (m).—Under regulations prescribed by the Secretary or his delegate, an individual establishing a qualified individual retirement account shall be treated as an owner-employee for purposes of applying paragraphs (1), (2), (3), and (4) of section 72 (m) (relating to special rules applicable to employee annuities and distributions under employee plans).

"(e) CAPITAL GAINS TREATMENT AND LIMITATION OF TAX NOT TO APPLY TO DISTRIBUTIONS.—Section 72(n), section 402(a)(2), and section 403(a)(2) shall not apply to any amount distributed or made available by a qualified individual retirement account."

TREATMENT OF DISTRIBUTIONS FROM QUALIFIED INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 343. (a) IN GENERAL.—Section 72 (relating to annuities) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) PREMATURE DISTRIBUTIONS FROM QUALIFIED INDIVIDUAL RETIREMENT ACCOUNTS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to—

"(A) distributions from a qualified individual retirement account, and

"(B) amounts which are received from a qualified trust describe in section 401(a) or under a plan described in section 403 (a), but only to the extent attributable under regulations prescribed by the Secretary or his delegate to amounts with respect to which a credit was allowable under section 42 (relating to retirement savings),

which are includable in gross income and which are received by the individual who established such qualified individual retirement account or who was allowed such credit (or the spouse of such individual) before he or his spouse attains the age of 59½ years, for any reason other than his becoming disabled (within the meaning of section 409 (a)(4)), but only to the extent that such amount is not contributed within 60 days after the day on which such amount is distributed or made available to a qualified individual retirement account for the benefit of such individual or such individual and his spouse.

"(2) AMOUNT OF PENALTY.—If an individual is required to include in gross income for the taxable year an amount to which this subsection applies, there shall be imposed an additional tax for such taxable year equal to 30 percent of such amount. Any tax imposed under this paragraph shall not be reduced by any credit under part IV of subchapter A (other than sections 31 and 39 thereof), and shall not be treated as tax imposed by this chapter for purposes of section 56."

(b) INVESTMENT IN THE CONTRACT.—

(1) Subparagraph (A) of section 72 (c) (1) (relating to definition of investment in the contract) is amended by inserting after "contract" the following: "for which no credit was allowed under section 42 (relating to retirement savings)".

(2) Section 72 (d)(2) (relating to employees' annuities) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any contribution made with respect to the contract shall not be treated as consideration for the contract contributed by the employee to the extent that a credit was allowed under section 42 (relating to retirement savings) with respect to such contribution."

(c) AMOUNTS RECEIVED BEFORE ANNUITY STARTING DATE.—Section 72 (m)(1) (relating to special rule applicable to amounts received before annuity starting date) is amended to read as follows:

"(1) Certain amounts received before annuity starting date.—Any amounts received under an annuity, endowment, or life insurance contract before the annuity starting date which are not received as an annuity (within the meaning of subsection (e)(2)) shall be included in the recipient's gross income for the taxable year in which received to the extent that such amounts, plus all amounts theretofore received under the contract and includable in gross income under this paragraph, do not exceed the aggregate premiums or other consideration paid for the contract—

"(A) while the employee was an owner-employee which were allowed as deductions under section 404 for the taxable year and all prior taxable years, or

"(B) with respect to which credits were allowed under section 42 for the taxable year and all prior taxable years, except to the extent that, within 60 days after the day on which such amounts are received, such amounts are contributed to a qualified individual retirement account for the benefit of the recipient or the recipient and his spouse.

Any such amounts so received which are not includable in gross income under this paragraph shall be subject to the provisions of subsection (c)."

TECHNICAL AND CLERICAL AMENDMENTS

SEC. 344. (a) TECHNICAL AMENDMENTS.—

(1) PENSION PLAN RESERVES.—

(A) Section 805 (d) (1) (relating to definition of pension plan reserves) is amended by striking out "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting in lieu thereof "; or", and by adding at the end thereof the following new subparagraph:

"(E) purchased under contracts entered into with trusts, custodial accounts, or other similar arrangements which (as of the time the contracts were entered into) were deemed to be qualified individual retirement accounts (and defined in section 409 (a))"

(B) Section 801 (g) (7) (relating to segregated asset accounts) is amended by striking out "or (D)" and inserting in lieu thereof "(B), or (E)".

(2) AVERAGEABLE INCOME.—Paragraph (2) (A) of section 1302 (a) (relating to definition of averageable income) is amended by striking out "section 72(m) (5)" and inserting in lieu thereof "section 72 (m) (5) or 72 (p)".

(3) EARNED INCOME.—Section 1348 (b) (1) (relating to definition of earned income) is amended by striking out "72 (n)" and inserting in lieu thereof "72 (n), 72 (p)".

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the last item and inserting in lieu thereof the following new items:

"Sec. 42. Retirement savings.
"Sec. 43. Overpayments of tax."

(2) The table of sections for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new items:

"Sec. 408. Failure to make required contributions.
"Sec. 409. Individual retirement accounts."

EFFECTIVE DATE

SEC. 345. The amendments made by this title shall apply with respect to taxable years beginning more than 1 year after the date of enactment of this Act.

TITLE IV—PENSION INSURANCE

SEC. 401. (a) There is created a Pension Guarantee Corporation (hereinafter referred to as the "Corporation") which shall insure, as hereinafter provided, the unfunded vested liabilities of all pension, profit-sharing, stock-bonus, and bond purchase plans which otherwise qualify under sections 401 or 404 (a)(2) of the Internal Revenue Code of 1954.

(b) The Corporation shall not be an agency or establishment of the United States Government.

(c) The Corporation shall be a nonprofit membership corporation composed of those plans which purchase insurance from the corporation.

(d) Except as otherwise provided in this title, the Corporation shall be subject to, and have all the powers conferred on a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code 29–1001).

BOARD OF DIRECTORS

SEC. 402. (a) The Corporation shall have a Board of Directors which, subject to the provisions of this Act, shall determine the policies which shall govern the operations of the Corporation.

(b) The Board of Directors shall consist of—

(1) the Secretary of the Treasury or his designee, ex officio;

(2) the Secretary of Labor or his designee, ex officio; and

(3) 5 directors appointed by the President as follows—

(A) 2 from among persons associated with employee organizations,

(B) 2 from among persons associated with employers, and

(C) 1 from among members of the general public not eligible for appointment under subparagraphs (A) and (B).

(c) The President shall designate a Chairman and Vice Chairman from among those Directors appointed under paragraph (3) of subsection (b).

(d)(1) Except as provided in subparagraphs (A) and (B), each director shall be appointed for a term of three years.

(A) of the Directors first appointed, two shall hold office for a term of one year, two shall hold office for a term of two years, and one shall hold office for a term of three years, as designated by the President at the time of their appointment.

(B) A vacancy in the Board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A director may serve after the expiration of his term until his successor has taken office.

(e) All matters relating to compensation of directors shall be as provided in the bylaws of the Corporation.

(f) The Board of Directors shall meet at the call of its Chairman, or as otherwise provided by the bylaws of the Corporation.

BYLAWS

SEC. 403. (a) As soon as practicable but not later than forty-five days after the date

of enactment of this title, the Board of Directors shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation and the exercise of the rights and powers granted to it by this title, and shall file a copy thereof with the Secretary of the Treasury (hereinafter referred to as the "Secretary"). Thereafter, the Board of Directors may alter, supplement, or repeal any existing bylaw or rule and may adopt additional bylaws and rules, and in each such case shall file a copy thereof with the Secretary.

(b) Each such bylaw or rule or amendment thereto shall take effect upon the thirtieth day (or such later date as the Board of Directors may designate) after the filing of the copy thereof with the Secretary or upon such earlier date as the Secretary may determine, unless the Secretary shall by notice to the Corporation setting forth the reasons therefor, disapprove the same, in whole or in part, as being contrary to the public interest or contrary to the purposes of this title.

(c) The Secretary may, by such rules or regulations as he determines to be necessary or appropriate in the public interest or to effectuate the purposes of this title, require the adoption, amendment alteration of, supplement to or rescission of any bylaw or rule by the Corporation whenever adopted.

PENSION GUARANTEE FUNDS

SEC. 404. (a) The Corporation shall establish 2 funds, one of which shall be known as the "Single-employer Fund" and the other of which shall be known as the "Multi-employer Fund" (hereinafter referred to as the "insurance funds"). All amounts received as premiums, assessments, or fees, and any other moneys, property, or assets derived from the operation by the Corporation of the insurance program shall be deposited in the appropriate insurance fund and all claims, expenses, and payments pursuant to the operation of such program shall be paid from the appropriate insurance fund.

(b) All moneys of the insurance funds may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

PROTECTION OF PARTICIPANTS

SEC. 405. (a) Subject to the limitations in subsection (b), upon the termination of a member plan, the Corporation shall cause to be paid to each participant in such plan, or to his beneficiary (if such beneficiary would be entitled to receive such benefits), an amount or amounts which (when added to the amounts paid to him by the plan) are necessary to provide him retirement benefits in an amount equal to the retirement benefits with respect to which he had nonforfeitable rights under the plan upon the date of termination of the plan.

(b) The aggregate amount payable to a participant or his beneficiary by the Corporation shall not exceed the amount which, in addition to the sum of the amounts paid him by the plan, is necessary to provide a monthly retirement benefit for the life of the participant payable at normal retirement age (or, in the case of a participant who was disabled prior to the termination of the plan, payable at such time as is specified in the plan) equal to the lesser of (1) $1000 or (2) 50 percent of his average monthly wage for the 5-year period following the date on which the plan became a member of the Corporation for which his earnings were their greatest. In the case of a participant (or a beneficiary) who is receiving retirement benefits at the time the plan is terminated, the limitations on the amounts of payments from the Corporation shall be determined under regulations issued by the Corporation consistent with the principles of this subsection.

(c) Unless otherwise authorized by the Corporation, no amount shall be payable by the Corporation in the case of a plan which is terminated within 5 years after it becomes a member of the Corporation. The Corporation may authorize payments in the cases of such a plan only if—

(1) it was maintained as a qualified plan under section 401 of the Internal Revenue Code of 1954 for more than 5 years prior to its termination;

(2) the Corporation is satisfied that during the period the plan was not a member, it was in substantial compliance with the provisions of section 401 (j) of the Internal Revenue Code of 1954 (relating to funding requirements); and

(3) such payments will not prevent equitable underwriting of losses of vested benefits otherwise covered by this title.

(d) no amount shall be payable by the Corporation with respect to benefits which were created by a plan amendment which took effect within the 3-year period to its termination.

(e) No amount shall be payable by the Corporation with respect to the interest of a participant who, on the date of the plan's termination, is the owner of 10 percent or more of the voting stock of the employer, or of a 10 percent or more interest in the employer where it is an unincorporated trade or business.

(f) The Corporation shall, by regulation, prescribe the procedures under which the funds of terminated plans shall be wound up and liquidated and the proceeds therefrom applied to payment of the non-forfeitable benefits of participants and beneficiaries. In implementing this subsection, the Corporation shall have authority—

(1) to transfer the funds in the terminated plan to the appropriate insurance fund for purposes of liquidation and payment of benefits to participants and beneficiaries;

(2) to purchase single-premium life annuities with the funds of the terminated plan; or

(3) to take such other action as may be appropriate to assure equitable arrangements for the payment of non-forfeitable benefits to participants and beneficiaries under the plan.

INITIAL ASSESSMENTS

SEC. 406. Each member plan of the Corporation shall pay to the Corporation, on becoming a member, a uniform assessment as prescribed by the Corporation to cover the administrative costs of establishing and maintaining the insurance program.

ANNUAL PREMIUMS

SEC. 407. (a) Each member plan shall pay an annual premium to the Corporation determined by applying the premium rate established by the Corporation for that year to the plan's unfunded liabilities for nonforfeitable benefits which are protected by the insurance program (referred to herein as "unfunded vested liabilities"). The Corporation may establish a uniform premium rate for all member plans, may establish a separate uniform premium rates for single employer plans and for multi-employer plans, or may establish a schedule of premium rates which vary by the likelihood that, and the extent to which, a plan may produce liabilities to the insurance program.

(b) For the 3-year period immediately following the effective date of this title, the annual premiums payable pursuant to subsection (a) shall not exceed—

(1) two-tenths of a percent of a plan's unfunded vested liabilities incurred prior to the date of enactment of this Act, where such plan is a multi-employer plan or where such plan's median ratio of plan assets to unfunded vested liabilities was 75 percent during the 5-year period immediately preceding the enactment of this Act or, in the event of a plan established within such 5-year period, where the plan has reduced the amount of such unfunded vested liabilities at the rate of at least 5 percent each year since the plan's date of establishment; or

(2) four-tenths of a percent of a plan's unfunded vested liabilities incurred prior to the date of enactment of this Act where such plan does not meet the standards set forth in paragraph (2) and is not a multi-employer plan.

(c) The Corporation is authorized to prescribe different premium rates after the initial 3-year period based upon experience and other relevant factors.

(d) The Corporation may impose upon its members such special assessments as it may deem necessary and appropriate to provide additional funds to meet obligations of the insurance program. Any assessments so made on a plan for any year shall not exceed the annual premium payable by the plan for that year multiplied by 3, and shall be determined in a manner consistent with the methods for determining such annual premium.

(e) In the event that one or both of the insurance funds is or may reasonably appear to be insufficient for the purposes of this Act, the Secretary is authorized to make loans to the Corporation. At the time of application for, and as a condition to, any such loan, the Corporation shall file with the Secretary a statement with respect to the anticipated use of the proceeds of the loan. A loan shall be made only if the Secretary determines that it is necessary for the protection of participants of member plans and the maintenance of confidence in the private retirement system. The Corporation must submit a plan which provides a reasonable assurance of prompt repayment under the circumstances. Such loan shall bear interest at a rate determined by the Secretary, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary may reduce the interest rate if he determines such reduction to be in the national interest. There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out his duties under this title.

By Mr. RIBICOFF:

S. 1180. A bill to discontinue price support programs for agricultural commodities beginning with the 1974 crops of such commodities. Referred to the Committee on Agriculture and Forestry.

AN END TO FARM SUBSIDIES

Mr. RIBICOFF. Mr. President, the administration has finally revealed what every housewife has known for months—food prices are skyrocketing.

Consider what has happened to the American breakfast. In the last year the wholesale price of eggs is up 40 percent, wheat 57 percent, coffee 40 percent, cocoa 47 percent and bacon 48 percent. No matter what the product, prices are rising at record rates—both at the retail and wholesale levels and there is no end in sight.

For some families, the price increases may only mean that they will have to forego steaks and roasts for chicken and hamburger. But those families already finding it difficult to purchase such lower priced items may now find it impossible to buy balanced meals, especially since their wages have been limited by the President's economic program.

We could help eliminate this problem immediately by placing price controls on raw agricultural products. President Nixon has that power and should use it. When Congress reviews wage-price

legislation in the coming weeks, I will introduce an amendment to require him to freeze food prices.

Price controls are not the final answer, however. We also need to develop long-term solutions to the chronic rise in food prices. I am therefore introducing legislation today to eliminate Federal agriculture subsidy programs.

Farm subsidies come in two basic forms—acreage restrictions and price-support loans. With acreage restrictions, direct cash payments are made to farmers in return for their promise to reduce their productive acreage.

Price-support loans allow the Government to purchase certain commodities through nonrecourse loan agreements. Such agreements permit a farmer to borrow money from the Government using his unharvested crop as collateral. If the price of the crop turns out to be higher than the value of the loan the crop is sold and the loan repaid. If the crop is worth less than the loan, the farmer defaults and the Government adds his produce to its stockpile. Because the loans are nonrecourse, the Government cannot sue the farmer for the difference between the loan value and the crop value. That difference is pocketed by the farmer as a subsidy.

During fiscal year 1972, farmers were paid more than $4.6 billion in direct payments and nonrecourse loans. In addition, American consumers pay another $4.5 billion yearly in higher food prices artificially inflated by the subsidy programs. Farm prices in recent years would have been as much as 15 percent lower had these programs not been in existence.

These expensive and inflationary programs are based on the myth of the small farm which dominated American agriculture during the 1920's and 1930's. Because of the vast numbers of small farmers in those days and their lack of organization, there was no way to control agricultural production. As a result the Federal Government entered the marketplace to stabilize prices.

These conditions no longer exist. The small farmer is not a major factor in American agriculture. Farming is now a major business and should be treated as such.

Three-fourths of all farm sales are now made by 19 percent of all farmers. Owners of farms selling less than $5,000 in products received 83.5 percent of their total income from nonfarm sources. Despite the fact that these farms account for a tiny portion of the market, we continue to spend up to $10 billion annually to protect them.

Ironically, small farmers do not receive much from the subsidy programs. Charles L. Schultze, the former Director of the Bureau of the Budget, has pointed out that our farm subsidies are not distributed according to income—small farmers getting the most and the big ones the least. Instead they are based on production—the more a farm produces, the greater the value of price supports and subsidies. As a result, the bulk of the subsidies go to the farmers with the highest income.

For example, the Agriculture Department divides farms into categories based on sales. Category 1 farms had sales in excess of $40,000 while category 6 farms had sales of less than $2,500. According to 1969 figures, category 1 farms included only 7.1 percent of the total number of farms but accounted for 51.6 percent of total sales. These few farms received 40.3 percent of the farm subsidies.

At the other end of the scale, category 6 farms accounted for 41.2 percent of the total number of farms but only 2.7 percent of total sales. These truly small farmers received only 5.3 percent of Federal subsidies.

It is time we recognized what the Agriculture Department's own Young Executives Committee has pointed out:

> National policy should not be directed at assuring any particular level of income from farming for the nation's farmers. Income from farming should be of concern only to the extent that it affects the industry's ability to produce efficiently adequate supplies. National policy should be directed toward maintaining agriculture as a viable industry, not as a way of life.

The expiration this year of the Agricultural Act of 1970 provides us with an opportunity to restore some balance to agriculture legislation. The present subsidy programs are vestiges of the past and no longer applicable to the agriculture industry of the 1970's.

If we are ever to bring food prices under control, these old laws must be abolished and modern legislation designed for a free market economy enacted.

I ask unanimous consent that the text of the bill to end farm subsidies 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. 1180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, no funds may be obligated or expended under authority of the Commodity Corporation Charter Act, as amended, the Sugar Act of 1948, as amended, the Agricultural Act of 1949, as amended, the Food and Agricultural Act of 1965, as amended, the National Wool Act of 1954, as amended, or under any other Act, for the purpose of carrying out any price support or subsidy program for any agricultural commodity or product thereof.

SEC. 2. The provisions of this Act shall be effective with respect to crops harvested in 1974 and succeeding calendar years and, in the case of wool and mohair, after December 31, 1973.

By Mr. ERVIN:

S. 1184. A bill to incorporate the National Federation of Music Clubs. Referred to the Committee on the Judiciary.

FEDERAL CHARTER BILL FOR NATIONAL FEDERATION OF MUSIC CLUBS

Mr. ERVIN. Mr. President, I introduce today a bill to provide a national charter for the National Federation of Music Clubs. In both the 91st and 92d Congresses, I introduced similar legislation for the chartering of this meritorious organization. On November 12, 1971, a public hearing was held for the consideration of this and other charter bills. Unfortunately, no action was taken on the bill by the Subcommittee on Federal Charters, Holidays, and Celebrations of the Committee on the Judiciary. Since that time the National Federation of Music Clubs has continued its educational and altruistic promotion of music in our country and plans to celebrate its 75th anniversary at its national convention in April of this year.

It has provided leadership in making the fine arts an important part of our national life. Actually, the influence of the national federation is international in scope because it is the world's largest philanthropic music organization.

I believe that the passage of a bill to give a Federal charter to the National Federation of Music Clubs would be a most helpful contribution to the advancement of music in our country. It would mean governmental recognition for the work of the national federation, and thereby add to its prestige and strengthen the place of music in our national life. A Federal charter for this fine organization will not mean any Federal control over its activities. It will not result in any Government subsidy for the organization's work. Passage of this bill will simply give recognition to this outstanding music group, just as the National Music Council, the American Symphony Orchestra League, and the American National Theater and Academy have been honored by Congress.

It is my earnest hope that this Congress will have the opportunity to act favorably on this bill in the very near future.

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. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(1) the influence of the National Federation of Music Clubs is felt throughout the United States and throughout the world;

(2) the National Federation of Music Clubs has provided leadership in making the fine arts an important part of our national and international life; and

(3) the National Federation of Music Clubs is devoted to encouraging excellence in all fields of music.

SEC. 2. Mrs. Maurice Honigman, Doctor Merle Montgomery, Mrs. J. Knox Byrum, Miss Gertrude P. Caulfield, Mrs. Jack C. Ward, Mrs. Naomi Reynolds, Mrs. Dwight D. Robinson, Mr. J. Phillip Plank, and Mrs. James A. Brady; and their successors are hereby created and declared to be a body corporate by the name of the National Federation of Music Clubs (hereinafter referred to as the "corporation"), and by such name shall be known and have perpetual succession, and the powers, limitations, and restrictions herein contained.

SEC. 3. The persons named in section 2 of this Act shall be the incorporators of the corporation and a majority of such persons are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary for such purpose.

SEC. 4. This corporation is formed for fraternal, patriotic, historical, and educational purposes; to bring into working relations with one another, music clubs and other musical organizations and individuals directly or indirectly associated with musi-

cal activity for the purpose of developing and maintaining high musical standards; to aid and encourage musical education; and to promote American music and American artists throughout the United States of America and other nations.

SEC. 5. The corporation shall have power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to appoint and fix the compensation of such officers, employees, managers, and agents, as its business may require, and define their authority and duties;

(4) to adopt, amend, and alter bylaws and regulations not inconsistent with the laws of the United States or any State, or the District of Columbia, in which such corporation is to operate, for the management of its property and the regulation of its affairs;

(5) to make and carry out contracts;

(6) to charge and collect membership dues, subscription fees, and receive contributions or grants of money to be devoted to the carrying out of its purposes;

(7) to take and hold by lease, gift, purchase, grant, devise, or bequest any property, real, personal, or mixed, necessary for attaining the objects and carrying into effect the purposes of the corporation, subject, however, to applicable provisions of law of any State or the District of Columbia (A) governing the amount or kind of real and personal property which may be held by or (B) otherwise limiting or controlling the ownership of real and personal property by, a corporation operating in such State, or the District of Columbia;

(8) to transfer, convey, lease, sublease, mortgage, encumber, and otherwise alienate real, personal, or mixed property;

(9) to borrow money for the purposes of the corporation, issue bonds or other evidences of indebtedness therefor, and secure the same by mortgage, deed of trust, pledge, or otherwise, subject in every case to all applicable provisions of the Federal and State laws or of the laws of the District of Columbia; and

(10) to do any and all lawful acts and things necessary and proper to carry out the objects and purposes of the corporation.

SEC. 6. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide.

SEC. 7. (a) Upon the enactment of this Act and for not more than one year thereafter, the membership of the initial board of directors of the corporation shall consist of those persons named in section 2 of this Act.

(b) Thereafter, the board of directors of the corporation shall consist of such number, shall be selected in such manner, and shall serve for such term as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation, and shall be responsible for the general policies and program of the corporation and for the control of all funds of the corporation.

(d) The board of directors may establish an executive committee and other committees to exercise such power as may be prescribed in the bylaws.

SEC. 8. The officers of the corporation shall be those provided in its by laws. Such officers shall be elected in such manner, for such term, and with such duties, as may be prescribed in such bylaws.

SEC. 9. (a) The principal office of the corporation shall be located at 600 South Michigan Avenue, Chicago, Illinois, 60605, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place but may be conducted throughout the United States and each territory, possession, and dependency of the United States.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation, and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to, or service upon, the corporation.

SEC. 10. (a) No part of the income or assets of the corporation shall inure to any member, officer, employee or member of the board of directors, executive board, or committees, or be distributable to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual expenses in amounts approved by the corporation's board of directors.

(b) The corporation shall not make loans to its members, officers, employees, or members of the board of directors, executive board, or committees. Any member of the board of directors who votes for or assents to the making of such loan, shall be jointly and severally liable to the corporation for the amount of such a loan until the repayment thereof.

SEC. 11. The corporation shall be liable for the acts of its officers, agents, managers, and employees when acting within the scope of their authority or employment.

SEC. 12. The corporation and its officers and members of the board of directors as such, shall not contribute to or otherwise support or assist any political party or candidate for office.

SEC. 13. The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

SEC. 14. The corporation shall keep correct and complete books and records of account. It shall also keep minutes of the proceedings of its members and board of directors, and executive board and committees authorized by the board of directors. The corporation shall keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member, or his agent or attorney, for any proper purpose, at any reasonable time.

SEC. 15. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with this Act, the bylaws of the corporation, and all other Federal and State laws and laws of the District of Columbia applicable thereto.

SEC. 16. The corporation shall have the sole and exclusive right to use and allow or refuse to others the use of the name "National Federation of Music Clubs", and to have and to use such distinctive insignia, emblems, seals, and badges, descriptive or designating marks, and words or phrases, as may be required to carry out the purposes of the corporation. No powers or privileges hereby granted shall, however, interfere or conflict with established or vested rights.

SEC. 17. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (78 Stat. 635; 36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(49) National Federation of Music Clubs".

SEC. 18. The right to alter, amend, or repeal this Act is hereby expressly reserved to the Congress.

By Mr. CASE:

S. 1185. A bill to provide for the control of surface and underground coal mining operations which adversely affect the quality of our environment, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. CASE. Mr. President, I am today introducing a bill to phase out strip mining of coal in this country.

My bill, which is identical to H.R. 1000, introduced in the House by Congressman KEN HECHLER of West Virginia, would halt within 6 months the most destructive form of coal surface mining, that known as contour mining. Other forms of coal surface mining would be phased out over an 18-month period following enactment of the bill. In addition, the bill would require stricter Federal control of surface mining and reclamation of surface-mined areas during the 18-month phaseout period.

I am well aware of the issues this bill raises, just as I am aware that there are alternatives to surface mining.

There may be those who would say it is folly to phase out strip mining at a time when we are facing shortages of sources of energy.

But strip mining may actually be delaying needed development of the sources of energy needed to meet today's shortages.

We are fortunate at this time of need to have abundant reserves of coal, particularly of low-sulfur coal that can be deep mined in the very areas where surface mining is now taking place.

Of the 1,552 billion tons of known reserves of coal, only 3 percent, or 45 billion tons, can be strip mined. The remainder can be extracted only by deep mining. In other words, to meet our current energy shortages, we are going to have to turn more toward deep-mined coal.

But, since 1965, strip mining of coal has contributed to a decline of coal mining in the underground pits. More than 1,700 deep mines in Appalachia alone closed between 1965 and 1970, leaving thousands of persons who worked in the mines without jobs.

If environmental costs are ignored, it is cheaper to tear away the surface of the earth to lay bare a seam of coal. This is particularly true if long neglected safety measures are required, as they must be, in the deep mines.

Mine operators have argued that the reduced costs of surface mining are necessary in order for coal to compete with other fuels whose prices have been held down by government regulation.

But an increase in the costs of all fuels is inevitable as we face shortages of known reserves of all sources of energy except coal.

In this situation, coal can once again become cost competitive and can provide the energy we need to fill in gaps left by diminishing supplies of other fuels.

But development of the deep mine reserves of coal will be delayed as long as we permit surface miners to produce at a cost which does not include the social, environmental, flood, and health damage that is caused by strip mining.

In past Congresses, we have faced up to the need to assess the costs of damage to our environment caused by air and water pollution. The National Environmental Protection Act of 1969, the Clean Air Act of 1971, and the Clean Water Act

of 1972 are examples of the bold legislation which previous Congresses have considered and approved.

These laws had a great deal of opposition when they were introduced and they still have their critics. But they have not stifled our economy as some feared they would. And they have demonstrated that we can have a healthy economy and a healthy environment at the same time if we are willing to make the hard decisions needed to promote these objectives.

It is time we faced the facts in regard to surface mining of coal. It is time we begin to prepare for a shift in the coal mining industry from reliance on strip mining to deep mined coal. The reserves of the closed deep mines and the reserves still untouched must be made available to the market.

It is in this context, that I ask that this bill be referred to committee and urge that it be given serious attention.

By Mr. SCHWEIKER:

S. 1186. A bill exempting State lotteries from certain Federal prohibitions. Referred to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, today, I introduce the State Lottery Exemption Act of 1973, a bill to exempt official State-operated lotteries from restrictive Federal postal, broadcasting, and gambling laws.

This bill is identical to the bill I introduced during the last session of the Congress, S. 3573.

States today are hard-pressed to raise revenues for important public services. The popularity of State lotteries to date indicates that the public supports this method of raising revenue, and my bill will eliminate current Federal restrictions on the operation of State lotteries.

State-operated lotteries, like Pennsylvania's new lottery, are key new methods to raise important State revenues, and we must insure that Federal laws do not impede these State efforts. Pennsylvania's lottery, which began in March 1972, is netting over $50 million a year, which is being used for property tax relief for the elderly.

The exemptions I recommend will enable States to more freely publicize the lottery, to attract more lottery ticket buyers, and to insure that all aspects of the lottery's operation are fully in accord with Federal laws.

My bill will accomplish the following: First, allow radio and television stations to broadcast information about the lottery, including the winning numbers. Tile 18, United States Code, section 1304, currently bans any lottery broadcasting, and the Federal Communications Commission has specifically ruled that the current law is to be strictly enforced.

Second, allow newspapers to freely publish lottery information without fear of violating postal regulations. Title 18, United States Code, section 1302, prohibits the use of the mails for distribution of information about lotteries in newspapers. The U.S. Postal Service has permitted publication of legitimate "news" about lotteries so long as the "news stories were not merely fulfilling a necessary part of the operation of a lottery." However, Postal Service representatives have visited Pennsylvania newspapers in connection with publication of lottery information, and a memorandum which has been given to these newspapers in the State by the Postal Service says that—

> Even if the only information published is the winning number, identified as such, and no mention is made of the prizes pertaining thereto, the mailing of the publication might be found to be prohibited by postal lottery law.

The Postal Service has advised newspapers "to seek the guidance of private legal counsel as to contemplated mailings of items dealing with lotteries." I think it would be better to exempt State-controlled lotteries from the prohibitions altogether to eliminate any uncertainty or confusion for newspapers.

Third, allow advertisements of State lotteries in newspapers and on radio and television. This will allow the States to publicize their lotteries more comprehensively, and will help insure greater revenues from the lotteries.

Fourth, insure that States operating lotteries are not subject to the Federal 10-percent wagering tax. Section 4401 of the Internal Revenue Code requires that the operator of a lottery shall pay a 10-percent excise tax "on all wagers placed in such lottery." Exemptions from this tax provided by section 4402 only include lotteries where "the ultimate winners—are determined by the results of a horse race," and do not include computerized number lotteries such as Pennsylvania's. Clearly the intent of the law is to exempt legitimate fundraising events from the gambling tax, and I would hope that my bill might be passed quickly to clarify the law to insure that all State lotteries are exempted from this tax.

Fifth, exempt State-operated lotteries from the Federal tax on "coin-operated gaming devices" imposed by section 4461 of the Internal Revenue Code. This will allow States to utilize coin-operated vending machine sales of lottery tickets, without the threat of an additional tax.

Sixth, allow mailing of lottery tickets, and information about State lotteries. Title 18, United States Code, section 1302, prohibits the use of the mails for distribution of lottery tickets, for sending checks or money orders to purchase tickets, or for any solicitation connected with the lottery. Exemption of State-controlled lotteries from this prohibition would allow a State to expand its lottery sales.

Seventh, allow transportation in interstate commerce of State lottery tickets, equipment and information. Three sections of title 18, United States Code, section 1301, dealing with "transportation lottery tickets"; section 1084, dealing with "transmission of wagering information"; and section 1953, dealing with "Interstate transportation of wagering paraphernalia"—all provide restrictions on transportation aspects of lotteries which should be exempted.

Eighth, exempt State-operated lotteries from section 3005 of the postal laws which allows postmasters to return mail concerning lotteries.

The bill will exempt official State lotteries from provisions of the law which seriously impair the ability of States to continue these revenue-raising methods successfully, such as the broadcasting, newspaper mailing, and 10-percent wagering tax provisions. Some of the other provisions are relatively technical exemptions. However, all of them should be enacted so that the laws of the U.S. Government are consistent in recognizing a State's legitimate interest in using lottery, sweepstakes, or wagering pools to obtain needed funds for public services.

Nearly half the States are either conducting or considering State lotteries. Some predict that every State will someday be engaging in some lottery system to raise revenues. It is in the interest of each Member of Congress to modify the Federal laws to permit the maximum operation of State lotteries, and I urge my colleagues to act promptly on this legislation.

Mr. President, I ask unanimous consent that the text of the "State Lottery Exemption Act of 1972" 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. 1186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "State Lottery Exemption Act of 1973."

SEC. 2. (a) Chapter 1 of title 18, United States Code (relating to general provisions), is amended by adding at the end thereof the following new section:

"§ 16. State-conducted lotteries, sweepstakes, and wagering pools

"(a) The provisions of chapter 61 and of sections 1084 and 1953 of this title shall not apply with respect to any lottery, sweepstakes, or wagering pool conducted by any agency of a State acting under authority of State law.

"(b) For purposes of this section, 'State' includes any of the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States."

(b) The table of contents of chapter 1 of such title 18 is amended by adding at the end thereof the following new item:

"16. State-conducted lotteries, sweepstakes, and wagering pools."

SEC. 3. (a) Section 4402 of the Internal Revenue Code of 1954 (relating to exemptions from the wagering tax) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) STATE-CONDUCTED LOTTERIES, ETC.—On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents."

(b) Section 4462(b) of such Code (relating to exclusions from definition of coin-operated gaming device) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and

(3) by adding after paragraph (2) the following new paragraph:

"(3) a vending machine which (A) dispenses tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of

State law and (B) is maintained by the State agency conducting such sweepstakes, wagering pool, or lottery, or by its authorized employees or agents."

(c) The amendment made by subsection (a) shall apply with respect to wagers placed after the date of the enactment of this Act. The amendments made by subsection (b) shall apply with respect to periods after such date.

SEC. 4. Section 3005 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The provisions of subsection (a) of this section shall not apply to any lottery, gift enterprise, or scheme for the distribution of money or of real or personal property by lottery, chance, or drawing of any kind conducted by any agency of a State acting under authority of State law. For purposes of this subsection, 'State' includes any of the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States.".

By Mr. PROXMIRE:

S. 1187. A bill to repeal the Military Selective Service Act. Referred to the Committee on Armed Services.

REPEAL OF MILITARY SELECTIVE SERVICE ACT

Mr. PROXMIRE. Mr. President, I send a bill to the desk to repeal the Military Selective Service Act effective June 30, 1973, and ask that it be appropriately referred.

Mr. President, I am the chairman of the Subcommittees on Housing and Urban Development, Space, Science, and Veterans of the Senate Appropriations Committee before which the funds for the Selective Service System are reviewed. I, therefore, have a special concern about the money we now spend for Selective Service.

We have ended the draft, but we have not ended the institution of the draft.

FIFTY-FIVE MILLION DOLLARS, YET NO ONE IS BEING DRAFTED

Under the law today not a single person is being drafted. Yet the Selective Service System is asking for $55 million next year to maintain 925 offices and a staff of 4,340 bureaucrats. This includes 56 State boards, 96 appeal boards, a Presidential appeals board, and one local board for every county or equivalent subdivision in the United States. In addition to the paid personnel, there are some 40,000 or more citizens who give voluntarily of their time.

The continuation of this huge bureaucracy at a time when no one is being drafted is probably the biggest single boondoggle now going on in the Government. It is a ridiculous and wasteful expenditure of funds.

We stopped the draft but the bureaucracy goes on forever.

LARGE FUNDS FOR VOLUNTEER FORCE AND RESERVES

Because we stopped the draft, the budget includes $4.1 billion for increased pay allowances for the regular military forces in an effort to upgrade those forces and to achieve an all-volunteer army.

In addition, extra funds are going to modernize the Reserve and the National Guard who, according to the President's budget itself:

Are now designated as the primary course for augmenting the active forces in an emergency—page 76.

If we need the draft, the all-volunteer force and the Reserves will give us time to recreate the machinery.

Keeping the institution of the draft in being after the draft has ended cannot be justified on any basis of national security or national defense.

If we get into a small war, the Reserves and National Guard are supposed to be ready. That's what we are paying them for. In that case, we will not need the draft.

If we get into a major war with Russia or China there would be no time to call up men, hear their appeals, put them in training camps, transport them to Europe or Asia, and send them into battle. It would take at least a year to do that and by that time the war would be over. Even if we kept every bureaucrat on duty for the next 10 years, there is no way the draft could help in a major confrontation or atomic war with Russia or China.

END OF THE BOONDOGGLE

I am introducing this bill today so that when the Selective Service Director comes before my Appropriations Subcommittee for funds, he cannot claim he needs the money, because Congress has decreed that his bureaucracy should continue after the need for it is dead.

By Mr. BROCK (for himself, Mr. BEALL, Mr. BENNETT, Mr. DOLE, Mr. DOMINICK, Mr. FANNIN, and Mr. TOWER):

S. 1188. A bill to promote the utilization of improved technology in federally assisted housing projects and to increase productivity in order to meet our national housing goals, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BROCK. Mr. President, on behalf of myself and the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. FANNIN), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), and the Senator from Texas (Mr. TOWER), I introduce a bill aimed at ending restrictive work rules and outmoded building code bars to the use of new or improved building products and methods.

A recent Wall Street Journal article predicted that housing costs would continue to rise in 1973, this year by 10 percent. What this means is that needed housing will continue to be priced out of the reach of many Americans, particularly those in the middle- and lower-income groups. Here in Washington, the reaction has been to apply a bandaid cure by merely increasing Federal housing subsidies rather than diagnosing and curing the underlying causes. In the Senate-passed Housing and Urban Development Act of 1972, such subsidies were raised to cover families with incomes of $11,000. Besides putting an undue and unnecessary burden on the American taxpayer, this approach fails to solve the problem.

If we were free to employ the latest construction technology and products we could lick this problem. The new technology to which I refer can range from prehung doors to entire buildings designed as a system. Prof. Kenneth Zapp, of Case Western Reserve University, predicted in a recent Technology Review article that building construction costs could be cut by 25 percent by using available technology. However, until there is unrestricted use of these products, the full extent of the resulting cost savings cannot be determined. The Douglas Commission—National Commission on Urban Problems—said that since industrialized products are limited from use on a national scale, they cannot be mass produced. Moreover, architects and engineers, knowing they will face code or union problems intentionally "design around" the new products. Contractors, in order to get the job done, acquiesce.

Unfortunately, restrictive work practices and outdated building codes severely limit the use of technological advances. The work-rule barriers result from collective bargaining agreements that allow building trades unions to refuse to handle or install certain products. This results in a limitation on the use of cost-saving products, lower availability of housing, and higher prices. The building code impediments, ostensibly established to protect health and safety, too often serve only to perpetuate out-of-date and far more costly products.

The bill I introduce today would set aside these roadblocks in federally assisted and subsidized programs. It is the same measure I introduced in the 92d Congress as S. 3373 and subsequently amended—Senate amendment No. 1575. It is an outgrowth of the breakthrough amendment offered by the distinguished Senator from Texas (Mr. TOWER) to the Housing and Urban Development Act of 1969. As finally adopted, that amendment directed the Secretary of Housing and Urban Development to:

(4) assure, to the extent feasible in connection with housing construction, any major rehabilitation and maintenance under grams assisted under this section that there is no restriction by contract, building codes, zoning ordinances, or practice against the employment of new or improved technologies, techniques, materials, and methods, or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance, and therefore stimulate expanded production of housing under such programs, except where such restriction is necessary to insure safe and healthful working and living conditions.

Thus, Congress has evidenced a legislative policy recognizing the necessity for use of technological advances in construction. Unfortunately, Congress has not given enforcement power to support this legislative policy. My bill should fill this gap.

I offered a proposal similar to S. 3373 during the executive session on the Housing and Urban Development Act of 1972. The Subcommittee on Housing and Urban Affairs initially adopted it. Later it was reconsidered and narrowly defeated. I then offered a proposal during the floor debate on the housing bill. I withdrew the amendment after the committee chairman, the distinguished Senator from Alabama (Mr. SPARKMAN), scheduled hearings. These hearings were held on June 20 through 23, 1972, and have been printed in a committee document entitled "Improved Tech-

nology and Removal of Prevailing Wage Requirement in Federally Assisted Housing."

What emerged from the hearings was clear evidence that product boycotts, restrictive work rules, and restrictive building codes continue to contribute significantly to the cost of home construction.

For instance, Robert F. Thompson, director and member of the Labor Relations Committee, U.S. Chamber of Commerce, testified that, in a Western State, the painters' and decorators' union refused to allow the use of prefinished cabinets and doors that would cost 50 percent less than painting those same cabinets and doors on the construction site.

Donald L. Chapman, testifying jointly on behalf of the Consulting Engineers Council of the United States and the National Society of Professional Engineers, explained how his engineering firm had specified a certain type of high-pressure supply duct work, manufactured by any one of three companies, for an air conditioning and heating system in a St. Paul bank building. The local of the Sheet Metal Workers of America demanded that the duct work, instead of being purchased, be fabricated on the jobsite, claiming this was work its members had traditionally performed. The union made its claim in spite of the fact that the contractor never had fabricated such duct work and that there were no facilities in the area capable of the required milling. As Mr. Chapman pointed out:

> In effect, we were being told that we could not specify the type of duct work we felt was best suited for this project, even though the client was relying upon us to assure the subsequent satisfactory operation of his facility.

Congressman BOB WILSON, of California, reported that in his State members of the sheet metal workers union refuse to allow prefabricated sheet metal products on the jobsite unless they bear union labels. Even if the factory-built product is manufactured in a plant organized by members of the union, the local will object if the plant is out of its immediate area. As a result, these products must be made at the jobsite at a substantial increase in cost.

My bill contains the mechanics to allow the use of the new technology without involving the Federal bureaucracy. It recognizes the need to protect health and safety and to adapt to local differences while still providing the needed boost to productivity in the construction industry.

The bill itself is straight forward. Its important provisions are:

First, through a civil court action in a Federal or State court, any person may prevent the enforcement of any local code, law, ordinance or work rule that restricts his use of new techniques or materials in a federally assisted housing program unless it is necessary to enhance health or safety. No action by a Government agency is required.

Second, the remedy does not apply if the code or work practice is required to protect health or safety of working or living conditions. The person who raises this defense must show by a preponderance of the evidence, first, that the restraint is necessary to insure safe and healthful working or living conditions, and second, that the new product fails to provide this assurance.

Third, the court may order equitable or preventive relief and damages although damages may not be assessed against a local government body.

Fourth, the safety and health issue and all other questions under the bill will be decided by State or Federal courts in the locality.

I want to point out that my bill does not provide the means for establishing a national building code. As a result of the subcommittee hearings on S. 3373, I found objections to the bill centered around a provision using standards established by a HUD-approved standard setting or testing agency to create a presumption that a new product or technique meets safety and health requirements. As a result, I amended the bill to eliminate any involvement with such agencies, and took a different approach by placing the burden of proof on the person invoking the health and safety exception. This new approach is included in the bill I introduce today and is described in the foregoing outline. It is a significant improvement since it avoids the recurring questions of national standards, qualified testing, and standard-setting agencies and HUD involvement.

I believe my bill provides a simple solution that can provide lower cost housing to all our citizens. It allows the man who thinks he has built a better "mousetrap" the opportunity to test his idea in the marketplace for the benefit of the consumer. I cannot see why anyone should be afraid to have a work rule, product, or local building code tested in this manner.

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

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

S. 1188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any provision or requirement in any building code or other local law or ordinance, or in any contract or agreement, or any practice or other restraint which interferes with or restricts the use of new or improved techniques, methods, or materials or the use of preassembled products in connection with any development, construction, rehabilitation, or maintenance activity assisted under any program administered by the Secretary of Housing and Urban Development shall be unlawful with respect to such activity: *Provided,* That nothing contained in this paragraph (a) shall be construed to make unlawful any such provisions, requirement, practice or restraint if it is shown by a preponderance of the evidence (1) that such provision, requirement, practice or restraint is necessary to assure safe and healthful working or living conditions and (2) that such technique, method, material or product fails to assure such safe and healthful working or living conditions.

(b) Any person who is aggrieved because of any provision or requirement in any building code or other local law or ordinance, or because of any contract, agreement, practice, or other restraint unlawful under subsection (a) of this Act may bring a civil action in any appropriate United States district court notwithstanding any other provision of law and without regard to the amount in controversy, or in any appropriate State or local court of general jurisdiction to obtain equitable or preventive relief for violations of this section, or for appropriate damages, and may request such relief, or enter a claim for such damages, in any court whenever relevant in connection with a defense to, or counterclaim in, any suit or action brought against such person in that court, except that damages shall not be awarded where the person bringing the action under this section is aggrieved by reason of any provision or requirement in any building code or other local law or ordinance.

By Mr. WEICKER:

S. 1189. A bill to promote fair, understandable, and enforceable regulations for nomination and election to Federal office, by limiting the collection and expenditure of funds, and by simplifying reporting regulations. Referred to the Committee on Rules and Administration.

THE FEDERAL ELECTION CAMPAIGN REFORM ACT

Mr. WEICKER. Mr. President, I am today introducing the "Federal Election Campaign Reform Act." This is the first in a series of bills I will introduce on Federal election standards and practices, legislation that will place before the Congress its first order of business—its own honor.

The power of the purse has become the most undisciplined, uncontrolled, and irresponsible force in politics.

Our method of financing campaigns has done more to demean the practitioners of politics and to discredit the political system in the eyes of the public than anything else.

Politics has, in the public eye, become the apprentice of corruption, rather than the master over it.

The legislation I am introducing today will begin the process of remedying this, by revising and reforming the morass of campaign regulations, that have grown like elephant grass, until men everywhere— candidates and voters alike—can neither understand nor obey them.

It will limit the time period for expenditures and contributions.

It will limit each candidate to one political committee.

It will limit the use of his personal funds.

It will tell the complete financial story—before the election.

This same legislation will include publication requirements that will mean something—to voters—before election day. And the penalties will finally mean something—to politicians, by applying monetary fines, equal to the amount of violation, to publicize notice of the violation.

At a later date I will introduce supplementary legislation, which will, for the first time, set into law a code of ethics. This second step is based on the practical knowledge that endless available "loopholes" are an ever-present risk, that can never be "patched" or "plugged" by specific legislation. Self-enforcement, of the spirit, as well as the letter of the law, will be an important part of the eventual solution.

This package of legislation goes to the very heart of some of the gravest issues facing America today—issues as to whether Americans want to believe in their political system, or whether they want to turn it over to the corruption of money and its sordid companions.

The rising costs of campaigns have fostered the most vicious competition for campaign dollars, from men and groups using their pocketbooks to gain political influence. These costs are accelerated by the new reliance on television and technology.

The Citizen's Research Foundation, which does the most systematic study of this area, estimates that costs which inched up from $140 million in 1952 to $200 million in 1964, underwent an astounding 50-percent increase in 1968, to $300 million. The 1970 Senate primary in California cost almost $4 million.

As costs rise, candidates turn more and more to rich men and groups for their funds. A Gallup poll has showed that only 8 percent of adult Americans made a political contribution in 1968—a significant reduction from previous years. I have heard of a lot of contributions, but how can we continue to call $2 million given to the President by one man last fall a "contribution."

The legacy of all this is increasing distrust. The Center for Political Studies reported in 1971 that those people professing to have a high degree of trust in Federal Government had dropped from 62 to 37 percent in 6 years. Lou Harris reported later in the year that—and I quote—"sizable majorities of the public are prepared to believe the worst about politicians." And this is not just money—it is integrity, it is professional ethics, it is our future.

Which brings me back to the specifics of the bill I am introducing today.

The first step it will take is to limit costs. This bill will, for the first time, not allow money to be spent or collected—in any way whatsoever—except during the calendar year of the election.

In addition, all collections or contracting for new obligations will be cut off 2 weeks before the election—and a complete financial report issued at that time.

Money could still be spent during the last 2 weeks of the campaign—but only for items contracted for and duly reported.

Clearly, any deficit would become public knowledge, before the election—and such a deficit would, under this bill, become the personal liability of the candidate.

This set of spending and collecting limitations would accomplish a number of results. First, it would effectively monitor financial activity by narrowing it to a manageable time period—the period from January 1 to election day. Second, it gives the public information in an area they have never shown an interest in before now, but an area in which they should have an interest—the postelection donation. One-quarter to a third of all money is raised after the election. It is "bad money"—money that rides on the winner's new office. Finally, and most important, these regulations would bring the complete facts to the voters attention, 2 weeks before the election—in time for voters to express their own opinion of the campaign's conduct.

This controls the time period—and time is money, especially the time after the election.

The next step is to regulate financial conduct of a campaign. In the legislation I will introduce, all money would be controlled by one committee—and only one committee—for each candidate. No more confusing the public—one repository where we look to monitor what is happening.

An equally important regulation will prohibit contributions back and forth between political committees. What happens today is that a committee, such as a congressional campaign committee, gets money from a donor. It brings that money into a "common fund." When it is handed on to a candidate, often a candidate specified by the original donor, only the ambiguous name of a "committee" next appears on the candidate's reports.

This is called laundering of donations, and it will be prevented. Committees and other political organizations will still be able to function, but they will have to modify their methods of operation. They will still be able to solicit or administer contributions—but if they collect a donation, it will have to be given to the eventual candidate in the name of the original donor.

In an additional regulation, no candidate could spend more than $5,000 of his personal funds on his campaign, except for deficits.

The second step, and an important step in implementing all the regulations, is to get some reports that are meaningful—and timely.

First, all reporting would be done to two places—and only two places—the Comptroller General and the appropriate State election supervisory office.

Second, there would, at most, be only two reporting times: 2 weeks prior to a primary, if there is one, and 2 weeks before the election itself. The important point here is that the key statistics—the whole story—will come to your attention 2 weeks before the election.

Finally, this legislation imposes a unique form of penalty.

The bill would impose no jail term, because that has proved totally unrealistic, in terms of enforcement, under the present law—for obvious reasons.

There would be no simplistic fine, such as the $5,000 under present law, which is easily paid—and then forgotten.

Instead, a fine would be levied and the money collected from the fine would be used to publish the violation. If it is a monetary violation, the fine would be three times the amount of the violation. If it is a nonmonetary violation, the fine would be an amount set by the Comptroller General which would be sufficient to notify the public of the offense.

In all cases, the fine can be increased to provide adequate public notice. And most important, the violator must be the one to notify the public of his offense.

This, then, is the substance of the bill I am introducing. It is presented in understandable form, and simplifies the thousands and thousands of regulatory words now on the books—which in their maze of provisions are so often only counterproductive.

It takes a giant step, to be sure—but giant steps are needed.

American politics is in trouble—not because of communism, or socialism, or defeatism—but because of American politics.

The old locker room wink, and "it's who you know" game, does not sell anymore—because too many Americans either cannot get in the club or know nobody.

I would like to return now to some thoughts that I expressed in the midst of the election campaign last fall.

I said then, that the American political system is too important to be left to the politicians and the politically astute activities among the public.

This business of integrity in politics is well worth keeping, well worth rebuilding.

If you cheapen a politician, or he cheapens himself, then how about a Constitution next, how about a Bill of Rights, how about the concept of America itself?

The real threat has been from within, for some time now. And the time is late.

First, it is corruption that is concealed.

Then, corruption that is condoned.

Then, corruption that collapses us all.

I received very little mail over Watergate or ITT. Whether that is condonation—or whether it is a "sophistication" that accepts a certain amount of wrong—the time is late.

Each drop of water erodes the rock a little more. And every violation of ethics, justice, and common decency that is accepted without protest makes the climate of receptivity toward new outrages that much more hospitable.

I believe in the original and not the modified American dream—and that is the way I undertake my present task in the Senate of the United States. Whether I am right or wrong will be determined by the people of Connecticut in 1976.

I do not believe we have become a nation of moral zombies. Americans will not stand by forever watching the cancer of corruption.

The truth is, my friends, that a good 99 percent of people in Government are good, honest, decent men and women. But I do say that it is time for the 99 percent to shake off the bemused lethargy when they come face-to-face with corruption and lack of integrity.

We have got to restore the code of integrity and honor to our society, to the politicians that make the laws, to the electorate that goes ahead and puts those politicians in. We must have a rededication of truth and decency and respect for the law. When it redounds unfavorably to our prejudices as well as when it confirms them, we must make an unshakeable commitment against any incursions on basic civil and human rights of our people, an uncompromising commitment.

These are principles that have always given us a strength way beyond our numbers.

When I spoke on this issue last fall, I noted that the election would soon be over and the temptation would be, as it always is with Americans, to dust off their hands, grin sheepishly, and try to forget what has gone on both during and before that particular election campaign. But not this time.

There can be no philosophical or political rationalization for lawbreaking, physical or mental. There was adult criticism of youth antics several years ago—remember that. Well, what I see today are the adults of America throwing the bricks—only this time it is not a store window that is being shattered, it is the American dream.

To all of which I say, "No." Too many of us believe in it still. Too many are in need of it still.

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

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

S. 1189

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 Election Campaign Reform Act".

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 2. Section 608 of title 18, United States Code, is amended to read as follows:

"§ 608. Limitations on contributions and expenditures

"(a) No candidate or political committee in a campaign for nomination or in a campaign for election to Federal elective office may, directly or indirectly, in any way whatsoever—

"(1) accept or arrange for any contribution, or expend or contract for any obligation, prior to the beginning of the calendar year in which the election is scheduled, or

"(2) accept any contribution, or contract for any obligation, after a date two weeks prior to the scheduled election date, or

"(3) make expenditures or contributions in excess of $5,000 from his personal funds, or the personal funds of his immediate family, or from such funds being contributed or expended through the use of a third party."

SEC. 3. Title 18, United States Code, is amended by adding the following sections:

"§ 614. Contributions by political committees

"Political committees shall not make any contribution to any candidate, political committee or other campaign for Federal elective office; *Provided,* That such committees may administer or solicit contributions, so long as such contributions are given directly by the initial contributor to a candidate or political committee.

"§ 615 No more than one political committee

"A candidate may establish no more than one political committee, in such candidate's own name; *Provided,* That the name of the committee, as well as the name of its chairman and treasurer, shall be filed with the Comptroller General immediately upon its formation; and should such a committee be established, all contributions received or expenditures made in connection with the campaign for nomination or election to Federal elective office shall be received or made by such committee and not by the candidate."

REPORTS

SEC. 4. Section 434 of title 2, United States Code, is amended to read as follows:

"§ 434. Reports by political committees or candidates

"(a) Each treasurer of a political committee supporting a candidate or candidates for Federal elective office—or each candidate, should such candidate not establish a political committee in his own name—shall file a report with the Comptroller General two weeks prior to a scheduled primary election date and two weeks prior to a scheduled election date for such candidate or candidates."

"Contents of reports

"(b) Each report shall be cumulative, shall report with respect to any activity in connection with the candidacy, and shall disclose—

"(1) the full name, social security number, and mailing address of each person who has contributed an aggregate amount or value in excess of $100, together with the amount of such contributions.

"(2) the full name and mailing address of each person to whom a debt or obligation is owed, in excess of $100.

"(3) the full name and mailing address of each person to whom an aggregate amount or value of expenditures have been made, including amounts or values expended to affiliates or subsidiaries, in excess of $1,000.

"(4) the total sum of all contributions received.

"(5) the total sum of all expenditures.

"(6) the total sum of all debts and obligations."

PENALTIES

SEC. 5. (a) Section 441 of title 2, United States Code, is amended to read as follows:

"§ 441. Penalties for violations.

"Any person who violates any of the provisions of this subchapter shall be fined in an amount at least equal to three times the amount of any monetary violation, or, in the case of nonmonetary violations, such amount as will satisfy the provisions of this subsection. The monies collected from the fine shall be spent by the violator for general publication or transmission, to the widest possible extent in the geographical area in which the campaign or election was held, of at last the content of the Comptroller General's findings. The means of such transmission or publication shall be determined by the Comptroller General, and shall require the complete expenditure of the fine, unless the Comptroller General determines that a lesser amount, determined by him, will achieve complete publication and transmission of the nature of the violation. An additional fine may be levied if the Comptroller General shall determine that, due to the nature of the violation, an additional amount is needed to properly publish the violation."

(b) Title 18, United States Code, is amended by adding the following section:

"§ 615. Penalties for violations

"Any person who violates any of the provisions of this subchapter shall be fined, in an amount at least equal to three times the amount of any monetary violation, or, in the case of non-monetary violations, such amount as will satisfy the provisions of this subsection. The monies collected from the fine shall be spent by the violator for general publication or transmission, to the widest possible extent in the geographical area in which the campaign or election was held, of at least the content of the Comptroller General's findings. The means of such transmission or publication shall be determined by the Comptroller General, and shall require the complete expenditure of the fine, unless the Comptroller General determines that a lesser amount, determined by him, will achieve complete publication and transmission of the nature of the violation. An additional fine may be levied if the Comptroller General shall determine that, due to the nature of the violation, an additional amount is needed to properly publish the violation."

COMPTROLLER GENERAL

SEC. 6. The Federal Election Campaign Act of 1971 is amended by inserting the words "Comptroller General" wherever the words "supervisory officer" appear.

DEFINITIONS

SEC. 7. Section 591(b) of title 18, United States Code, and section 431(b) of title 2, United States Code, are amended by adding after subsection (2) of each section the following:

"or (3) 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."

SEC. 8. Section 102(4) of the Campaign Communications Reform Act and section 315(f)(2) of the Communications Act of 1934 are 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 office."

EFFECT ON STATE LAW

SEC. 9(a). Nothing in this Act shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of, or extend or limit, a provision of this Act.

(b). Notwithstanding subsection (a), no provision of State law shall be construed to prohibit any person from taking any action authorized by this Act or from making any expenditure (as such term is defined in section 301(f) of this Act) which he could lawfully make under this Act.

PARTIAL INVALIDITY

SEC. 10. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 11. The provisions of this Act shall become effective on December 31, 1973, or sixty days after the date of enactment of this Act, whichever is later.

By Mr. MONDALE:

S. 1190. A bill to amend the Atomic Energy Act of 1954 to permit the States concurrently with the Atomic Energy Commission to regulate the emission of radioactive effluents. Referred to the Joint Committee on Atomic Energy.

Mr. MONDALE. Mr. President, today I am introducing a bill to permit the States to regulate concurrently with the Atomic Energy Commission the release of radioactive effluents from atomic energy facilities.

Basically, my bill would enable States to enforce more stringent controls over wastes from nuclear energy production and utilization facilities, than those implemented by the AEC. The objectives of this measure are briefly to: First. recognize the legitimate interests and responsibilities of the States in protecting the health of their people and the quality of their air, water, and soil; second, permit a higher degree of protection

from the effects of radioactivity where States judge that local conditions or technological capabilities so warrant; third, bring conformity to Federal laws affecting States rights and responsibilities in the field of environmental protection; and fourth, provide a State backstop against conflicts of interest which might arise as a result of the AEC's dual role as the promoter and regulator of atomic energy.

The State of Minnesota has for some time been deeply concerned about the adequacy of the AEC's regulatory program. In recognition of the debate within the scientific community regarding the health effects of low-level radioactivity, Minnesota established a program of controls over emissions from nuclear powerplants many times more restrictive than those of the AEC. In response to the mounting controversy and to the pioneering efforts of the State of Minnesota, the AEC subsequently proposed strengthening its own regulatory program.

Rather than removing the arguments in favor of State jurisdiction in this area, I believe that the AEC's proposed action clearly illustrates the value of letting States establish more restrictive regulatory programs—as a method to insure that regulatory efforts will keep pace with scientific discoveries and advances in control technology.

However, Minnesota's right to regulate emissions from atomic energy facilities was successfully challenged in the courts. Last April the Supreme Court affirmed a lower court ruling that the Federal Government has exclusive authority to regulate the release of radioactivity from nuclear powerplants as implied by the provisions of the Atomic Energy Act.

My bill would amend the Atomic Energy Act to permit States to exercise concurrent regulatory authority with the AEC over radioactive wastes from powerplants. State regulations would be subject to the limitation that they are for the protection of the public health and safety and that action permitted by any State, with respect to the discharge of disposal of radioactive effluent, is not specifically forbidden by the Commission.

At the present time States have the authority to set higher standards over the discharge of nonradioactive wastes into their air and waterways under the Clean Air and Federal Water Pollution Control Acts. Extending such authority to radioactive emissions would bring consistency to Federal laws affecting the environment.

States now have responsibility for regulating the major source of radiation exposure to their people—X-ray machines. Radioactive releases from cyclotrons, uranium mining and in certain cases uranium milling operations are not regulated by the AEC. Historically, States have, therefore, had considerable experience in the control of radiation exposure.

The strong interest of States in exercising responsibility over the release of radioactive wastes from powerplants is clearly demonstrated in the number of States which expressed support for Minnesota's position prior to the recent Court decision last spring. The list of such States includes Arkansas, Delaware, Illinois, Kansas, Maryland, Michigan, Mississippi, Missouri, Pennsylvania, Vermont, Virginia, West Virginia, and Wisconsin.

State expertise and interest in this field is growing as more and more States are directly affected by the construction of reactors within their borders. Twenty-eight nuclear powerplants are now in operation in the United States. Fifty-two are being built, and 70 are planned with reactors on order. I believe that decisions regarding the release of emissions from these facilities can best be made with the active involvement of concerned States.

As an illustration of the strong support for passage of my bill, I call the attention of my colleagues to letters of endorsement submitted by Gov. Wendell R. Anderson and by the Minnesota Pollution Control Agency.

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

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

STATE OF MINNESOTA,
ST. PAUL, MINN., *January 12, 1973.*

Hon. WALTER F. MONDALE,
U.S. Senate,
Hon. DONALD M. FRASER,
U.S. House of Representatives,
Washington, D.C.

DEAR SENATOR MONDALE and CONGRESSMAN FRASER: It is my understanding that you are prepared to introduce in the 93rd Congress a bill to permit the states to regulate the emissions of radioactive effluents from nuclear power plants, including state authority to enforce standards for such radioactive emissions at lesser quantities than provided by the Atomic Energy Commission. I assume this legislation is analogous to the bill you introduced in the last session of Congress.

The State of Minnesota has led the movement nationwide to nullify the current federal pre-emption of the right of state government, so to protect the health and safety of its citizens, to regulate nuclear power plants, including the right to set more restrictive standards than the Atomic Energy Commission. You have our complete support in your efforts to amend the Atomic Energy Act of 1954 to accomplish this end.

With warmest personal regards.

Sincerely,

WENDELL R. ANDERSON,
Governor.

MINNESOTA POLLUTION CONTROL AGENCY,
Minneapolis, Minn., January 11, 1973.

Hon. WALTER F. MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR FRITZ: I am pleased to learn that you intend to re-introduce the bill amending the Atomic Energy Act to permit states to set stricter regulations for radioactive emissions than those of the Atomic Energy Commission.

Many Minnesotans have long believed that Minnesota has both the right and the duty to set stricter standards than the AEC. Therefore, the Minnesota Pollution Control Agency set such standards to govern the Monticello Nuclear Plant. A court suit followed and last April the U.S. Supreme Court affirmed a lower court ruling that Congress had preempted the field and placed regulatory authority over radioactive emissions exclusively with the federal government. I hope that Congress will soon act to return this traditional right to the states so that they will have the ability to act in the best interest of their citizens in this matter.

As you know, states have the right to set stricter standards for non-radioactive water and air pollutants. Extending this right to radioactive emissions would place regulation in the hands of competent local authorities, who are responsive to the need for protection.

At its recent monthly meeting, the MPCA passed the enclosed resolution on the matter.

We need and want the legislation you propose and the Minnesota Pollution Control Agency Board and I heartily extend our support and endorsement of your efforts and of the efforts of your co-sponsors.

Sincerely yours,

GRANT J. MERRITT,
Executive Director.

RESOLUTION II

(Passed by the MPCA Board—January 8, 1973)

The Minnesota Pollution Control Agency Board supports the response of Congressmen Fraser, Quie and Karth and Senators Mondale and Humphrey to our request to introduce legislation allowing the states to regulate, concurrently with the Atomic Energy Commission, radioactive emissions from nuclear power plants. That legislation, (HR 17120 and S 4093 in the last Congress—new numbers not yet available in this Congress), will accomplish our goal of allowing concurrent regulation.

We respectfully request that the Minnesota Legislature send a memorial to Congress affirming our position and adding its support to this legislation.

S. 1190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in Congress finds and declares that—

(1) the control by the several States of the emission of radioactive effluents from facilities regulated by the Atomic Energy Commission is compatible with the development of atomic energy and its regulation on a national scale;

(2) current law does not sufficiently enable the several States to regulate such radioactive emissions in order to protect the public health and safety; and

(3) it is the intent of this Act to establish the concurrent authority of the several States to regulate such radioactive emisions, including the authority to enforce standards for such radioactive emissions, which permit lesser quantities of such emissions from such facilities than do the standards established by the Commission.

SEC. 2. Section 274 of the Atomic Energy Act of 1954 is amended—

(1) by striking out paragraph (6) of subsection a, and inserting in lieu thereof the following:

"(6) to give full recognition to the legitimate interest and responsibility of each State in matters pertaining to the public health and safety.";

(2) by striking out "No agreement" in subsection c. and inserting in lieu thereof "Subject to subsection o., no agreement"; and

(3) by adding at the end thereof a new subsection as follows:

"o. Nothing in this Act shall be construed to prevent any State from regulating concurrently with the Commission and the discharge or disposal of radioactive effluents from the site of a utilization or production facility in such State.—

"(1) the requirements or standards imposed by such State are for the protection of the public health and safety, and

"(2) action permitted or tolerated by such

State with respect to the discharge or disposal of such effluents is not specifically prohibited by the Commission."

By Mr. MONDALE (for himself, Mr. WILLIAMS, Mr. RANDOLPH, Mr. BIBLE, Mr. MCGOVERN, Mr. PASTORE, Mr. BEALL, Mr. STAFFORD, Mr. HUGHES, Mr. HATHAWAY, Mr. PELL, Mr. KENNEDY, Mr. BAYH, Mr. PACKWOOD, and Mr. HUMPHREY):

S. 1191. A bill to establish a National Center on Child Abuse and Neglect, to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. MONDALE. Mr. President, I would like to take this opportunity to explain my reasons for introducing today the Child Abuse Prevention Act.

One of the most tragic and perplexing problems that has been brought to the attention of my Subcommittee on Children and Youth is that of child abuse and how to deal with it legally.

Although laws requiring the reporting of suspected child abuse cases exist in all States in one form or another, we still hear of incidents that are reported too late—only after the child has died or suffered permanent damage.

No informed resident of the Washington area can be unaware of the tragic cases of child abuse which have come to light in recent months in Prince Georges and Montgomery Counties. Unfortunately, these are not isolated cases. According to the National Center for Prevention and Treatment of Child Abuse and Neglect in Denver, Colo., as many as 60,000 children nationally require protection each year.

I ask unanimous consent to place in the RECORD at this time a list of descriptions of child abuse cases which have come to the attention of the child abuse team at the National Center. They demonstrate more vividly than anything I can say the pressing reasons for early congressional action on the problem of child abuse.

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

CHILD ABUSE

CHILD IN HOSPITAL—FOSTER CARE—HOME

Allan, a 2 month-old boy, was admitted because of severe failure to thrive, with malnutrition and dehydration. He (at 2 mos.) weighed less than ½ lb. over his birth weight and while in the hospital gained over 1 lb. in 9 days. Therefore, the welfare department filed a dependency petition and received temporary custody and the baby was placed in foster care. A rehearing of the situation was planned for a 3 months interval, during which time the mother received general counseling; belonged to a young mother's group and had support from the welfare worker. In the last 2 months of counseling, a great amount of progress was made and at the next hearing, the child was returned home, with the stipulation of continuing contact with the welfare worker and medical follow-up every 3 weeks. The child and mother are thriving.

MEDICAL REPORT, BUT WITHOUT COURT ACTION

Jimmy was a 2-month-old child, who, on admission to the hospital, was found to have bruises around the eyes, 3 small scars on the abdomen and tenderness of the left upper arm. X-ray examination showed a fracture of this area. The police and the child protective services of child welfare were formally notified by the physician, but neither felt that there was enough evidence to present the boy to Juvenile Court. One month after discharge, the child was taken to another hospital where he was dead on arrival and his body showed innumerable signs of injuries.

"THE CHILD WHO WAS HATED"

(Relinquishment not facilitated)

The neighbor of David, age four years, became concerned when she noticed many large bruises on the little boy. She soon learned that the step-mother frequently beat the child and on occasion left the child alone for long periods of time. She called for instructions on how best to help the child. She was advised to try to become a friendly, helpful neighbor but that, if the child was left alone again, to call the police. The next day the child was left alone, the police were called and arrived 2 hours later, five minutes after the mother had arrived home. The neighbors, pre-school teacher, and a psychologist contacted the welfare department regarding the child's home situation. The step-mother was encouraged to go to the welfare department to ask for help. She frankly told them she could not stand the child, never wanted to see him again and asked for immediate placement for adoption. She was told it would be impossible to relinquish so abruptly, that the child could not be placed that day and the parents would first have to get involved in relinquishment counseling. Three weeks later David arrived dead in the emergency room. He had been dead for at least 72 hours and had severe burns from his waist down.

RECURRENT INJURY AND THEN REPORTED

Cindy was seen at 6 weeks of age at another medical institution for fractures of both bones of the right lower leg. Since the mother admitted causing these, the attending physician did not report the case. Four days prior to the present admission (at age 6 months) there were recurrent seizures and increasing lethargy. The child was very lethargic, without voluntary muscle control and did not react to light or noise stimuli. The fontanelle was bulging and further tests showed there to be a collection of bloody fluid around the brain. Because of the severe brain injuries and the history of past trauma, the Welfare Department filed a dependency petition which was sustained in court and the baby was placed in foster care.

PARENTAL DISABILITY

(Successful voluntary relinquishment)

Both parents of Ruth are diagnosed schizophrenics, released from the hospital prior to Ruth's birth. Mother's first child is in the custody of her former husband. Abortion was offered to the mother during her pregnancy but refused. Intensive follow-up of the family was done by social worker lay therapist, and "on call" psychiatrist. After 2 years of moderately good care the marriage became very unstable and during separations, and chaotic reconciliations, the parents were able to recognize Ruth's need for a stable home and their own inability to provide this. The parents relinquished Ruth in court to Welfare Department for adoption. No physical injury to Ruth, however, the mother frequently spoke of her feelings, under stress, of wanting to injure child.

TWELVE-YEAR-OLD MOTHER AND TWO TRIES AT JUDICIAL REMEDY

Jane, age 12, conceived a premature baby who was fathered by her mother's fiance with whom she had repeated intercourse. While the baby was in the premature unit, Jane treated it like a doll. The nurses and doctors felt that she was totally unable to mother this child because of her very immature behavior, which was at the 9–10 year level. The Juvenile Court informally refused a request by the Welfare Department for relinquishment of the baby and foster care supervision for Jane, to help her to go back to school and interrupt her relationship to her step father-to-be on the basis that "she has not yet been proven to be an incompetent mother". Another jurisdiction was sought and another judge ordered relinquishment for a successful adoption which promptly followed. Jane did well in foster care, returned to school and continuing as a supervised dependent under court order, has excellent prospects in a good foster home and with continuing, but less damaging, contacts with her mother and her new husband.

Mr. MONDALE. Mr. President, these are ugly stories. Most of us would probably prefer not to have to read them and be confronted with the dilemma they present for our society. But our society can no longer justify the inadequate laws and services which have allowed child abuse to become such a widespread occurrence.

The active interest of my subcommittee in child abuse dates from last year, when we published a document of selected readings on the subject, part 2 of "Rights of Children, 1972."

I am pleased that our further investigations into child abuse have the strong support of the chairman of the full Committee on Labor and Public Welfare, Senator WILLIAMS. I ask unanimous consent that a copy of a letter from the Senator from New Jersey to me be placed in the RECORD at this time.

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

U.S. SENATE,
Washington, D.C., March 8, 1973.

Hon. WALTER F. MONDALE,
Chairman, Subcommittee on Children and Youth, Committee on Labor and Public Welfare, Washington, D.C.

DEAR FRITZ: I have been following with great interest the preliminary research and investigation which the Subcommittee on Children and Youth has conducted in the area of child abuse. The compilation of materials which the Subcommittee published last winter is an important beginning.

Child abuse is a sickening, largely overlooked problem in America. In the last several months, however, the media has begun to turn its attention to this phenomenon and it has become clear that brutality against children by their parents has been dramatically and tragically increasing. This fact is confirmed by recent studies showing child abuse to be on the rise in the United States. We can no longer afford to ignore this situation and the implications that it has for children, families, and, indeed, the entire nation.

As Chairman of the Labor and Public Welfare Committee, I cannot urge you strongly enough to expand your Subcommittee's examination and evaluation of this issue. It is my hope that you will begin hearings as soon as possible with a goal of identifying precisely what role, if any, federal legislation and federal resources might play in the solution of this problem. The time has come to prevent the occurrence of child abuse, identify the victims, and provide the necessary help to these children and their families.

I want you to know that you will have my full support and cooperation in this vital effort.

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.

Mr. MONDALE. Mr. President, the bill I am introducing is intended to be a vehicle for a thorough examination of child abuse and its legal, sociological, and medical implications. The subcommittee will hold hearings on the bill starting March 26 and 27 in Washington. It is my hope that the testimony collected in hearings will assist us in preparing a final version of the legislation which would—unlike the many State laws which have been passed in recent years—provide a meaningful solution to the problem of child abuse.

This bill would:

First. Establish a National Center of Child Abuse and Neglect to monitor research, maintain a clearinghouse on child abuse programs and compile and publish training materials for persons working in the field;

Second. Establish a program of demonstration grants to be used in training personnel, providing personnel to areas that lack their own programs on child abuse and support other innovative projects aimed at preventing or treating child abuse or neglect;

Third. Create a National Commission on Child Abuse and Neglect to examine some of the issues relating to child abuse including the effectiveness of existing laws, and the proper role of the Federal Government in the area of child abuse;

Fourth. Amend existing legislation authorizing child welfare programs to require a State plan outlining the system used to deal with child abuse.

In the course of our hearings on the bill we expect to hear from some of the country's foremost experts on the legal, sociological, psychological, and medical aspects of child abuse. In addition, we have scheduled to testify the founder of Parents Anonymous, a new organization which holds great promise for persons who have abused children by enabling them to share their problems and offer each other emotional support. Another element of the hearing will be the detailed examination of how child abuse teams—made up of doctors, lawyers, social workers, and lay aides—have met with some success in identifying, preventing, and treating child abuse.

I ask unanimous consent to place in the RECORD copies of editorials which appeared in three of our Nation's leading newspapers, and which testify to the need for legislative action on child abuse; and other materials relevant to the legislation. I also request that a copy of the bill be printed at the end of my remarks.

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

RESCUING THE VICTIMS WHO CAN'T FIGHT BACK

Among the most unpleasant stories we come across in the news business are reports of child abuse—chilling accounts of the neglect, battering, torture and occasional killing of helpless children by their parents or other adults. Somehow, most people would prefer to believe that these instances of inhumanity must be extremely rare, or perhaps limited exclusively to poor and uneducated families. But experts can tell you that child abuse is unique to no one special group, and that it is a phenomenon far more widespread than is generally believed.

As it happens, the instances gaining the most public attention are usually cases of fatal or near-fatal beatings, in which a parent has been charged. But increasingly, authorities are discovering evidence that repeated physical torture and other severe mistreatment of children are going unreported because people are afraid or at least reluctant to notify police. Worse still, many of the young victims who finally are removed from their homes after tragic experiences are subsequently returned to those homes—only to endure more horror.

There is no precise way to calculate the degree of permanent damage to human lives in these instances, largely because there aren't any reliable statistics on the extent of the problem. Moreover, the procedures for dealing with child abuse cases are, for the most part, failing to meet the need for major remedial action.

At least in Greater Washington there has been some movement to improve approaches to child abuse, stemming from a singularly tragic case in Montgomery County last year. Attention focused on the problem when a 9-year-old Damascus girl died, apparently from beating, burning and other ill treatment; her father and stepmother are awaiting trial on a charge of murder.

Citing this case in the Maryland General Assembly recently State Senator Victor L. Crawford (D-Montgomery) has urged passage of a bill designed to give social workers and police greater power to enter homes where instances of child abuse are suspected. Senator Crawford explains that because social workers lack the authority to force their way into such homes, they were unable to go into the home where they suspected that the Damacus girl was being mistreated last year.

Under existing law, social workers accompanied by police may force their way into a home if they think there "is probable cause" to believe that a serious crime is being committed; but "probably cause" is a legal term meaning that police must have more than a mere suspicion of wrongdoing, and they must obtain a warrant before forcibly entering. Senator Crawford's bill would permit social workers to enter homes without a warrant when they suspect a case of child abuse, to remove any children found to be in danger. Police would be required to accompany social workers for their protection, but not necessarily to make arrests. If a social worker decided to remove a child, a petition would have to be filed with juvenile court and court action taken within five days.

The Crawford bill has met with some understandable opposition, for it does alter established safeguards against indiscriminate breaking into homes by authorities. Montgomery County State's Attorney Andrew L. Sonner—a leader in the effort to focus more attention on child abuse problems—has argued that the proposal is unnecessary, noting that since the case of the girl last year, Montgomery County officials have worked out procedures with police to handle emergency cases.

Besides, he says, "I'm not sure I want our citizens to have their homes broken into without probable cause. There ought to be some information the police are acting on, some standards of probable cause as in other cases." Furthermore, says Mr. Sonner, the bill might hinder social workers because it would require them to be accompanied by police when seeking entry into a home. A spokesman for state social workers, also attacking the proposal, says it would give to much power to social workers.

If every prosecutor's office in Maryland were as concerned about child abuse cases as Mr. Sonner is, and if all local police forces had the manpower and concern to assist social workers in their often dangerous assignments, there might not be any need for legislation along the lines of Senator Crawford's proposals. But the established procedures for recognizing and reporting child abuse cases haven't been working well—and children's lives are at stake. With sensitive and specific safeguards to restrict indiscriminate invasions by social workers and policemen, the Crawford proposal may be worth a careful test.

Legislative attention ought not to stop at this level, however; the concern voiced by Mr. Sonner and others—that identification of child abuse cases in only one part of the problem—is not addressed by the Crawford bill. The handling and treatment of reported cases, the decisions of when (or whether) to return children to their homes, and the whole approach to family-problem situations all cry out for more official concern.

Nationally, some of the more successful programs involve a team approach to child abuse cases, combining the talents of professional experts in all aspects of the problem—psychologists, nurses, social workers, attorneys, teachers, police and so on. Such teams can review abuse cases quickly and decide what measures might help resolve conditions contributing to each case; thus the responsibility for critical decisions is not dumped on one overworked or possibly incompetent social worker, or on a lone policeman who has many other pressing duties.

But the level of interest and concern among local agencies, state legislators, physicians—and the general public—never seems to go much beyond brief spurts of hand-wringing and quick-fix proposals in reaction to some especially chilling case that makes the headlines. Meanwhile, little lives are being threatened and ruined, and the cruelty takes many forms besides physical assault and battery. There are children who are starved, neglected, exploited, overworked and exposed to unwholesome or demoralizing circumstances. They are victims who cannot fight back, who cannot even report the crimes committed against them.

With the General Assembly now in session, and with Senator Crawford, State's Attorney Sonner and others pushing for new ways to approach child abuse problems, Maryland could take the lead in efforts to rescue and protect mistreated children. We hope the lawmakers in Annapolis will not let this important opportunity pass them by.

[From the Washington Star and News, Nov. 30, 1972]

DEALING WITH CHILD ABUSE

Child abuse is one of the most repugnant crimes growing in our midst, because it is practiced on the most helpless members of society, some of them not even out of the crib. Also, it's one of the most ignored offenses, occurring more often than not in the privacy of homes. Neighbors tend to look the other way, teachers often hesitate to report the parents of bruised and battered students. But Montgomery County Executive James P. Gleason isn't ignoring it, and we expect that his statements on the subject this week will provoke considerable discussion.

That will be all to the good, because this is a rapidly worsening problem, in Montgomery and many other counties, and deserves much more attention than it has received. But Gleason's bold proposals for combating child abuse certainly should be subjected to a good deal of expert scrutiny, and public discussion, before any action is taken on them.

He advocates treating this malefaction much more as a sickness than a crime. He proposes a bill in the next state legislative session to reduce the charge from a felony to

a misdemeanor. This measure, which Gleason says he can get introduced, would lower the maximum penalty for child abuse from the present 15-year sentence down to six months and a $1,000 fine. He also wants to bypass prosecutors until social service agencies have investigated alleged offenses, and give total legal immunity to people reporting child abuse cases. But while reducing the punishment for offenders, Gleason would impose some hard new penalties on "professionals," such as doctors, teachers, police and social workers, who fail to report suspected cases. That might bring more results than any of his other proposals.

Undoubtedly Gleason is right in saying this offense stems mainly from psychological sickness, and that the emphasis should be on identifying all the child-beaters and treating them. And a great many more of them might, as he contends, be reported to authorities if the maximum sentence weren't so heavy. There is no guarantee of that, however, and more evidence of potential efficacy of the penalty-reduction plan should be offered. To retain any penalty at all is to recognize that this is both a sickness *and* a crime. Nor is it any small crime. According to one school of thought, practically all forms of crime are the result of psychological illness, but how far that idea can be extended in the workings of justice indeed is a ticklish question. Some people who expend their surplus aggressions upon children are fully capable of finding other outlets, and they must not be dealt with softly by the law.

It seems clear, though, that most of the child abusers are driven by a singular compulsion, and there is encouraging testimony from experts that this can be cured in a large majority of cases. So Gleason is on the right track in calling for more effective means of finding and treating those afflicted adults. Some modifications of law obviously are necessary, and the General Assembly should seek the best advice available in deciding how far to extend those alterations.

[From the New York Times, Nov. 17, 1972]

ABUSE OF CHILDREN

Under the auspices of the University of Colorado Medical Center, a new organization has been set up to deal with a shocking fact of American society—the abuse and willful neglect of some 60,000 children a year. The hope is not merely to discover instances of abuse and to effect the separation of these pitiful victims from their parents, though that is often necessary for a time, but to go to work on the parents themselves. A team made up of a pediatrician, a psychiatrist, a nurse, a social worker and possibly a lay therapist will work with the involved parent, not punitively but with the aim of rehabilitation.

While this National Center for the Prevention and Treatment of Child Abuse and Neglect is new, its basic aim is by no means untried. It will build on the work of Dr. C. Henry Kempe, chairman of the university's Department of Pediatrics. This highly regarded pioneer in the field has used his coordinated team approach in more than 500 cases with such success that 80 per cent of the affected families were reunited without any recurrence of abuse.

The $558,000 grant by the Robert Wood Johnson Foundation is a wise investment and a hopeful one for the country. No society can afford to be indifferent to the appalling mistreatment of the most helpless and innocent of its citizens.

[From Woman's Day]

AT LAST! HELP FOR CHILD-ABUSERS

(By Sara Davidson)

Not far from Disneyland, in the Southern California suburb of Anaheim, nine women are sitting in the living room of a sunny ranch house. One is rocking a baby dressed in spotless white on her lap. Another is doing needlepoint. A third is fighting back tears.

Cindy, the young woman near tears, is asked to share her problem with the others. In a soft but hurried voice she tells how she lost her temper the night before when she took her three-year-old son to a hamburger house for dinner. "I told him before we left that if he didn't behave, if he couldn't sit in his seat and eat like a little gentleman, we wouldn't do it again. No sooner did I give our order than he slid out of the booth, ran behind the counter and knocked over someone's soup. Then he ran through the swinging doors into the kitchen. I had to chase him through the restaurant.

The woman next to Cindy winces. "That's so embarrassing when it happens in public." Another woman says, "I wonder why kids do it. To punish the mother or what?"

Cindy says, "When I finally caught him, I pulled him into the rest room and started clobbering him on the floor. I don't know how to handle his tantrums in public. He's so different from the way I was as a child. It scares me the way I can love him so much and then turn on him." She puts her head in her hands and cries.

The other women are all nodding. "We know what you're feeling," says one. "We've been there." They may not have experienced the exact situation, but like Cindy, all have found themselves lashing out aggressively at their children when frustrated. These nine mothers have come, by various routes, to an organization called Parents Anonymous—a private self-help group for parents who abuse their children.

Abuse can take many forms, from physical beatings to verbal attacks or icy withdrawal. All parents feel occasional urges to whack their children, and may sometimes give in to the impulse. But those who come to Parents Anonymous find themselves doing it consistently and uncontrollably. Most have had difficulties with their children since they were born. Doctors in California have found that parents who punish their babies—when it is extremely doubtful that infants can comprehend punishment at all—are likely to abuse the children as they grow up. Following their outbursts, parents tend to feel remorseful and terrified of losing their sanity. Even worse, they rarely tell anyone what they have done for fear their children will be taken away from them.

Parents Anonymous (usually called P.A.) offers one of the few opportunities for relating these experiences freely. Members meet once a week to explore new ways of responding to their children, in between meetings they run a network of telephone calls to feed each other love, warmth and support. From the start, there is both relief and greater pain. As one P.A. veteran advised a new member, "It hurts to grow."

The nine women in Anaheim this evening are being introduced to the founder of P.A. a former child-abuser known simply as Jolly K. Jolly is a tall, handsome woman of thirty-one who wears bell-bottoms and gold-rimmed glasses. She periodically visits the chapters spread through eleven states and Canada, and will, if asked, lead a meeting.

As coffee cups are passed, the members report how the past week has gone. The first girl, Pam, says she has had seven good days. "I like myself, and I know how wonderful that must look to my children." Liz, who is pregnant, reports that she has been getting along "beautifully" with her husband and four-year-old son, Timmy, but wants "to murder the little boy downstairs."

When the others ask why, Liz explains that the boy is two years older than Timmy and twice his size. "He gets all the kids on the block to pick on Timmy and my son won't defend himself. I try to help him; I tell him to hit back, but he won't. He comes crying to me, and keeps asking if I love him. He's afraid I'm going to leave him. He cries, 'Don't leave me, don't leave me' and there's no way I can prove to him I love him. It's so frustrating! Today I got so mad I yelled my head off at him."

Jolly asks, "Do you feel inadequate?"

"Yes," Liz replies, "because there's nothing I can do to reassure him."

Kay, a soft-spoken blond of twenty-four, suggests, "Show him in little ways that you love him."

Liz: "I do, and five minutes later he's back again crying."

Jolly: "Let's reconstruct this scene. Let's say I'm a four-year-old coming to you crying. Some big meanies are picking on me and my ego is shattered. What do you do to help a little guy start feeling like he's worth something?"

Liz holds out her arms. "I hug him and tell him I love him."

Jolly: "Do you tell him *why* you love him?"

Liz cocks her head. "I never thought about it. I don't know why I love him. I guess because he's mine."

Jolly: "If I were you, I might say, 'I love you because you're a nice, warm person, and Mommy loves nice, warm people.'"

Liz shakes her head. "He won't understand that."

Jolly: "Not the words, maybe, but the feeling will come across. Tell him every five minutes if you have to. And remember you're not doing it for *him!* We don't care so much about the four-year-old as we care about the mother. If you can reassure him so he feels better, you'll be proud of yourself. And as you feel better about yourself, he'll feel better about himself."

Liz fidgets in her chair. She says her son will never believe her. "If he'd only get up his gumption and beat up that bully!"

Pam says, "That's not realistic, Liz. Timmy only weights thirty pounds, and he's not old enough to grasp the principles of karate."

Jolly: "You think, Liz, that if you were a good, loving mother, you'd be able to straighten out all Timmy's problems and make him some kind of super tough guy who never gets bullied. Now because you can't do all that, you feel frustrated and inadequate. You think you're a bad mother, and you get angry.

"Why don't you try talking to your son about frustration? Tell him it's frustrating for everyone to have a bully around. Tell him you'd like to make it better for him but you can't—and that that doesn't mean you don't love him or that he isn't a good person. He won't understand all the words, but he'll get the message: Mommy cares."

Liz nods. So does everyone else. They can almost see the insight flicker in her gray-blue eyes.

"Start looking at your feelings and analyzing them," Jolly continues. "Once you see what they are, lay them open to your son. He'd rather hear about your feelings of frustration than get yelled at or beaten because of those feelings."

Liz is crying now, but nodding her head vigorously. "I'll start tomorrow," she promises.

A year ago, when Liz first came to P.A., she had beaten, bitten and kicked her son and hurled him against walls. It is difficult to imagine this from the fresh-faced creature sitting on a velvet sofa, just as it is difficult to imagine the other mothers in the room being driven to violent acts. They are all middle-class women, indistinguishable from those in any suburban shopping mall.

Until fairly recently, most doctors, government officials and health authorities operated on the assumption that child abuse was a bizarre and rare deviation—something that doesn't happen to "normal people."

The first step taken by all P.A. members is to try to redirect their anger. Instead of

hitting their children they are told to pound walls, kick chairs or scream out the door. "Right away you start acting in ways you don't have to feel so badly about afterwards," Jolly says. "You can even laugh about it." In addition, parents are urged not to discipline children when they're angry, but to wait four or five hours until they are cool enough to spank, if necessary, without losing control.

The second step is learning how to reach out to other people for help. "You learn to recognize a crisis in the making, and when you get super-uptight, you call every member in the group if you have to until you find someone who can stick with you." Members are told to call each other not only in bad moments but also when they have handled a situation well "to fish for compliments. That helps build up your ego," Jolly says.

This leads to the third stage in P.A., which is to repair emotional damage and alter the way members look at themselves and their children. Jolly says she learned through a long process of self-probing that she hated Faith "because I hated myself. At first it was an act of sheer willpower even to put my arms around her. I would say, 'I love you' and grit my teeth. But the more I was able to accept and like myself, the more I was able to like Faith and to see her as a completely separate individual. She was not my bad self and Roz was not my good self. Each was a separate, unique person."

Faith is in therapy now because, Jolly says, "her ego was almost destroyed. She thinks she deserved the treatment she got because she was such a bad character. But she's getting better. The other morning she came to me and said, 'I like Faith today.' I think that's pretty healthy. And she trusts me enough to say, if she feels like it, 'I hate you, you're mean.' Three years ago, she would have died for less than that."

Jolly says she still gets angry at Faith and feels like "clobbering her, but would I? No. I don't have to be afraid of the urge. I can handle it. If not, I could always call my husband or another P.A. member, or go back to kicking the chair."

According to Jolly, all but two of those who've stayed with P.A. about four months have been able to control and modify their abusive behavior. But progress is not easy to make, and P.A. will not work for everyone. "Some people can't function in a group, and some may be psychotic," she explains.

Dr. Ray Helfer, the author of two books on child abuse and a member of P.A.'s Advisory Board, says that one of the drawbacks of the organization is that the members "lack a model of healthy parenting—a person who understands child development and can provide examples of healthy ways to handle problems as they arise." For this reason, he said, some hospitals and agencies are experimenting with special day-care centers, traditional group therapy and parent aids—lay therapists who make home visits. The advantage of P.A., Dr. Helfer says, is that the members can treat the symptoms immediately without deep therapy. "It's a good way to short-circuit abusive habits."

To see how P.A. affects different people, I drove back to Anaheim the day after the meeting and met with three members—Kay, Cindy and Pam. Kay is an exceptionally pretty, slender young woman with fair skin and straight blond hair. While somewhat shy, she projects an air of warmth and concern. Married to an engineer, she has a son, five, and a daughter, three. Kay's difficulty is with her daughter; in the three months since joining P.A., she has progressed from hating her consistently to a state where she can enjoy and appreciate her *sometimes*.

Cindy is new. She has been to only two meetings, and feels hopeless about ever improving. Separated from her husband, she works as a lab technician to support herself and their three-year-old son.

Pam is a bright, inquisitive thirty-year-old who dresses with meticulous taste and constantly reads books about child-raising. She is married to an insurance broker and has three daughters: eight, three and nine months. She came to P.A. because she felt frantic and utterly unable to cope with her oldest child, who is hyperactive. She is more confident now, but still has "down days."

The feelings these mothers express about their children are quite different. Kay says she hates her daughter, Pam has mixed emotions, and Cindy says she loves her son more than anything in life. But after an hour's talk, it becomes apparent that all three are operating in the same basic pattern. They see in their children qualities they detest in themselves, their husbands or their relatives, and they project onto the children enormous capabilities beyond their years.

Pam says she hates her eight-year-old for lying, and adds, almost offhandedly, "I was a liar when I was a kid."

Kay says her daughter "brings out things in me I loathe. I never thought I could treat a human being the way I've treated her. I started slapping her on the face when she was a week old. I couldn't stand her voice or the way she eats. Nothing about her pleased me. I never wanted to hurt her, but I wished she would die of some infant sickness."

I asked Kay if she was abused as a child. "I wasn't beaten," she answered, "but my sister was, and it scared me. I think I was more abused verbally. I was told I was a dummy and nothing I could do was right." When Kay's daughter was born, the child appeared in the same grim light. "Nothing she did was worth anything. She robbed me of time I wanted to spend with my son and I was afraid she would break up my marriage." We got that cleared up at the last meeting. As someone pointed out, "Why give her that much power? She's just a three-year-old. She's right!"

Cindy, a tiny woman with perfect features and perfectly combed hair, calls her young son "the man of the house. He runs me," she says, "and I'm afraid now because I see the beginnings of the same sick relationship I had with his father." Although Cindy says she is extremely loving and permissive most of the time, when she gets angry or has a bad day, "I just have to pound on him until my feelings are satisfied. He must be so confused! I'm terrified I'll alienate him and he'll abandon me, and he's my whole life." She starts to cry.

Pam says, "I know your son loves you and needs you."

Kay adds: "It would be good for you to have some outside interests. Maybe when you get to know and trust us, you can leave him with us or trade off baby-sitting." Cindy seems inconsolable.

Pam tells her, "If all of us have pulled ourselves out of the pit, you can too." She describes the days before she came to P.A. when she beat her hyperactive daughter with a strap in order to "break her down, get her to be subdued and respect me. Everybody I went to for help could tell me what was wrong," she said, "but nobody ever told me what to do. At the first P.A. meeting, people made suggestions. And they worked! There's such a difference in our house. Now when my daughter gets out of control, I can subdue her by loving her and making her feel secure. And I go to my husband for help—something I never did before. I'm not cured, but at least I'm on top of the thing. I'm not desperate anymore."

Pam admits she was nervous about joining P.A. because she thought child-abusers were "low-class, low-grade, crummy people." She's found that this is not necessarily the case at all. "And I don't think P.A. is just for child-beaters, either," she says. "It's for people who need help because they can't handle difficulties with their kids."

Kay agrees. "I'll stay in it forever, because I know there'll be problems as my children grow up, and this way I'll have the group to support me. If I don't know how to deal with something. I can always call the sponsor for advice, instead of worrying and brooding, I'll be reassured and feel confident I'm doing the best thing."

It was late in the day now. Pam's daughters were in the kitchen making instant brownies, and the other two women had to pick up their children. Kay asked Cindy if she felt any better.

Cindy jerked her head slightly, startled to find that, for a brief time, she had been distracted from her own grief. She managed a weak smile. The others put their arms around her as she said, "Yes. Somehow I do."

[American Academy of Pediatrics, Committee on Infant and Pre-School Child]

MALTREATMENT OF CHILDREN

THE PHYSICALLY ABUSED CHILD

Maltreatment of children, or child abuse, takes many forms. It may be serious gross neglect of the child's welfare to the point of starvation,[1] cruelty resulting in emotional damage to the child, or physical assault by a parent, older sibling, or person charged with the care of the child, as described in the term "battered child syndrome."[2,3] We do not know the actual number of maltreated children, nor their subdivision into physical and emotional abuse. It is likely that the battered child is the least frequent yet currently the most discussed. This paper will concern itself primarily with the physically abused child.

Recently, the problem of maltreatment of children has received much attention. Perhaps part of the recent public interest in this problem has resulted from the dramatic phrase "battered child syndrome,"[2] which was first used by Kempe, *et al.* during a panel discussion at an annual meeting of the American Academy of Pediatrics.

But long before the phrase was coined, interest in the problem of multiple injuries had begun. About 20 years ago Caffey[4] described x-ray findings of multiple fractures in the long bones, and a diagnostic tool was developed. Since then the child with multiple injuries indicating new or recent injuries superimposed on old has come under increasing scrutiny, especially in the last three or four years. Later studies by hospital pediatric and x-ray departments added to the earlier reports of "skeletal trauma in infants"[5,6] which, in turn, have altered pediatricians, roentgenologists, and other physicians to the possibility of child abuse. As physicians have become more aware of the possibility of maltreatment as the cause of multiple injuries, the number of discovered cases has grown. The American Humane Association[7] estimates that there are some 10,000 cases of such abuse each year in the United States, but only a fraction of these are reported. However, aroused public and professional interest will, no doubt, cause more to be reported in future years. The increased public attention has been expressed by many newspaper and magazine articles, as well as television and radio programs. Additionally, the whole spectrum of professional organizations—social, welfare, medical, and governmental—have joined in attempting to meet the problem.[8-16]

What is to be done about the problem of child abuse? Some communities have had, and still have, facilities to protect neglected, abused, and exploited children. These child protective services are too few, but where they have existed, they have worked fairly well in helping these children once they have been brought to the attention of the community. Such resources usually have involved local departments of welfare,

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voluntary child protective associations, other social agencies, and the courts—family, juvenile, or district court with juvenile jurisdiction. It is obvious from the incidence of child abuse that these facilities alone did not reveal the magnitude of the problem, nor did they exert prophylactic deterrents to child abuse. Something more was needed to help unravel this problem. Some of the approaches to the problem have recently taken a new direction, growing directly from increased medical interest coupled with public alarm. As of September, 1965, 47 states had passed legislation dealing with the abused child. In most cases these law require physicians or other health personnel, who have reasonable cause to suspect that a child has had serious physical injury or injuries inflicted upon him other than by accidental means, to report the case to the proper authority designated to receive these reports, whether it be police or some other law enforcement agency, or a department of welfare.

The purpose of such reporting by physicians is to cause the protective services of the community to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses. The physician who, previously, when he suspected physical abuse, limited his participation to the best possible professional care for the child and to personal investigation of the family and/or a referral to the social service department of the hospital for an investigation, now has a legislative duty to report these cases to a community authority.[17] Prior to such a law, separation of the child from the family resulted infrequently, and repeated abuse often occurred, sometimes resulting in death of the child or permanent crippling or brain damage.

A few of the laws have been aimed at reporting incidents of assault and in punishing the abusive adult,[17 18] In such states, little attention has been given to the need for continued protection of the child and the rehabilitation (if possible) of the child's family. In the majority of states, however, where the intent of the law is to protect the child, the needs of both the child and his parents have been recognized and help has been recommended for both.

If these protective functions are to be increased by early medical case finding and reporting of child abuse (and this trend is already evident), responsible agencies must be provided with sufficient funds and qualified personnel to provide protection for the child. There must be legal authority to permit removal of the child from his home, and authority to implement prompt social investigation and responsible community action concerning the child and his parents.

The present pattern of child protective programs varies greatly across the country. Agencies responsible for investigation and for provision by protective services include private organizations (e.g., the Society for Prevention of Cruelty to Children in Brooklyn and Manhattan); county or city departments of welfare, the juvenile branch of the municipal police; and the investigating section of the juvenile or family court. Regardless of the plan used by a community to protect its children, the important point about reported cases of maltreatment, in addition to medical care of the child, is the need for prompt investigation of the case, followed by appropriate action by the investigating agency. This action may take the form of assistance to the family to promote more responsible behavior or removal of the child to a safer environment than his home

For example, in New York City there is a special Child Protective Services Unit. Following the passage of a legislative act making the reporting of suspected child abuse mandatory, the unit was set up by the Department of Welfare of New York City as part of its Bureau of Child Welfare in New York. This unit operates a central register whereas all cases of suspected or proven physical maltreatment are recorded and where all information relevant to a child or to his family may be readily available. The New York program, now a year old, has experienced a sharp increase in reporting by hospital physicians; at the same time a shortage of personnel, funds, and other facilities has already become evident.[19]

Observations previously reported indicate that the parents are in some instances mentally ill, mentally retarded, or emotionally immature, inadequate persons who themselves were so neglected or abused that they failed to grow into responsible adults. Also, persons of all walks of life, including professionals, have been incriminated.

With the assistance and supervision of a social agency, some of these parents can be helped to become responsible adults.[14] Punishment of these parents by placing them in jail generally serves little or no useful purpose other than to remove them from the abused child and his siblings for a limited period of time. It does not make them better parents or more able to deal with their children in a sound, constructive way. Indeed, their resentment at having been jailed may lead to even more severe punishment of the child. These individuals must be helped to grow themselves, and if this is not possible, they must be relieved of the responsibility for their children.

Role of the physician

The physician's duty is primarily to care for the maltreated child and to initiate steps designed to prevent further maltreatment. In many states he is now legally mandated to report a case of suspected physical abuse. This he must do, but he must exert care in arriving at his decision. The physician's knowledge may be limited to the medical condition of the child and to what background information may be elicited from the parents. X-ray findings may reveal single or multiple bone injuries, some new, some old, and further study may determine the absence of a disease process that might have contributed to the abnormalities. The physician may suspect that the parents' account does not explain adequately the child's injuries. He may also sense that the parent-child relationship is in some way pathologic. Thus the physician's knowledge of the incident, though considerable and sufficient to report suspicion of trauma, upon further investigation may not be sufficient as a basis for legal action against a specific person by a community agency. Further investigation is required by a social service, welfare, or law enforcement agency. The information obtained through investigation added to the original medical knowledge provides a firm foundation for further social or legal action.

Reporting of maltreatment becomes easier when the child has been hospitalized than when he has not. The physician reports the case to the hospital administrator who alerts the appropriate community agency, which in turn investigates and acts.

The physician encountering a case of suspected maltreatment in office practice is handicapped in the full evaluation of the child's condition and the background situation. He may be further handicapped by the traditional physician-patient relationship, and by lack of time in trying to obtain an accurate history. Also, he may lack laboratory facilities, x-ray, etc., to make a suitable evaluation. In such instance, since he must assure the safety of the child, the physician should try to hospitalize the child for protection and for evaluation.[20 21] If the family refuses to allow hospitalization, the physician can obtain a court order for this purpose.

In some instances the practicing physician is apprehensive about becoming involved in legal action. Much of his concern springs from the difficulty of detecting and dealing with assault. He is also concerned about being involved in a law suit, spending time in court, and patient criticism. He should exert caution in taking action on suspicion of abuse. When in doubt, he should seek help and advice from others, but whatever decision he makes should not jeopardize the child's welfare. The hospital physician can more easily avail himself of consultations in the hospital, so that the decision becomes one of a group rather than of an individual. This is likely to be more accurate, yet errors are discovered even after group decisions. To erroneously add an accusation of willful abuse to the burden of guilt of these parents is traumatic and serves no useful purpose.

Elmer and a group [22] including a pediatrician and psychologist re-evaluated 50 children previously believed to have been physically abused. Thirteen had either died or were hospitalized. Four of the remaining children were discovered to have been injured at birth or later, but the injuries were not inflicted by the suspected parent. No decision could be made about seven, although some of these probably were victims of abuse.

The inclusion in state laws of provisions granting immunity from liability for the reporting physician has removed much of the previous apprehension of reporting on suspicion alone. The widespread dissemination of the fact that the physician is legally mandated to report a case of suspected child abuse should also remove, or at least reduce, the parents' resentment.

Role of community

The community must set up a plan whereby cases of maltreatment are reported to an appropriate investigating agency just as soon as they are suspected. Action must be initiated immediately upon receiving the telephone report from the physician, or it may be too late to save the child's life. The agency must have medical and paramedical personnel available and, as already mentioned, adequate funds and facilities to do a prompt and effective job. The agency must then take the necessary action either by helping the family to function more adequately or by seeking legal action to remove the child to a safer environment should this prove necessary.[23]

As indicated earlier, various plans of child protection exist and are now operating in many communities. Where the legal basis and the implementation are adequate, these present programs have been found to be effective. If new reporting and investigating procedures are established, the Committee believes that it should be done through departments of welfare or health or through child welfare agencies. In those areas of the United States inadequate represented by city or county health or welfare departments or by child welfare agencies authorized to provide protective services, the local law enforcement authorities should be notified of maltreatment.

Central register

Any program of protection against child abuse involves several phases: case finding; case reporting to an authorized agency that can offer prompt protective action for the child; investigation of the circumstances surrounding the abuse; and maintenance of a register of each reported incident.

The central register is an important aspect of a program. This facilitates the detection of cases of repeated abuse, since parents of abused children frequently take them to different physicians or hospitals after each episode or attack to avoid identification with previous episodes. If a central register exists, a physician, hospital administrator, or social worker can, by telephoning, quickly discover whether a case is one involving repeated injury or neglect and

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possible abuse. The registry may be maintained by any agency the community selects, but again the Committee believes that either the city or county department of health or welfare is the most logical choice, since it is more likely to have necessary financial and clerical facilities and is experienced in maintaining registers.

The Committee urges those communities that already have effective child protective programs to expand their programs to include a registry.[1]

Wilson[24] reported a case that raises the important question: What shall be done about a person registered as suspected of having inflicted injury on a child who is later found innocent? How does this name get removed from the register? This might be very difficult and require much red tape and a judicial order. The problem might be solved if all reports are held in a temporary file and moved to a permanent one only when the suspicion is found to be based on fact, or when there continues to be doubt as to guilt of the parent. However, when the parent is proved innocent his record should be destroyed.

In setting up a program it is most important that the reporting physician or hospital be given legal immunity in reporting suspected maltreatment. This will deter suits and will encourage the person to report a case of suspected abuse which he otherwise might not do.

Recommendations

The Committee on the Infant and Preschool Child believes that mandatory reporting by physicians of suspected cases of child abuse is justified and that legislation for this purpose should be primarily of a protective rather than a punitive nature. It also believes that communities should be encouraged to develop their own sound programs to provide the necessary services to protect the child after a case has been reported.

Legislation should be guided by the following principles:

1. Physicians should be required to report suspected cases of child abuse immediately to the agency legally charged with the responsibility of investigating child abuse, preferably the county or state department of welfare or health or their local representatives, or to the nearest law enforcement agency.

2. The agency should have ample personnel and resources to take action immediately upon receipt of the report.

3. Reported cases should be investigated promptly and appropriate service provided for the child and family.

4. The child should be protected by the agency either by continued hospitalization, supervision at home, or removal from home through family or juvenile court action when indicated.

5. The agency should keep a central register of all such cases. Provision should be made for the removal of case records from the register when it is found that abuse did not, in fact, occur.

6. The reporting physician or hospital should be granted immunity from suit.

A program following these principles should be successful in identifying abused children and in protecting them from further abuse; in restoring those families that are capable of rehabilitation; in allowing the physician to perform responsibly within the bounds of medical knowledge and ethics; and in allowing the community to meet its obligations to its children.

Committee on Infant and Pre-School Child

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[From the U.S. Department of Health, Education, and Welfare]

THE ABUSED CHILD

INTRODUCTION

Child neglect and abuse are not new phenomena in our society, or in any society. What is new is the increase and violence in the attacks on infants and young children by parents or other caretakers. Evidence of this abuse, and awareness of it on the part of physicians began to pour into the Children's Bureau about 1960. Spurred by these accounts and by the interest aroused by the symposium on "The Battered Child" at the meeting of the American Academy of Pediatrics in October 1961, the Children's Bureau undertook the task of assembling information and starting action.

In January 1962, a group of consultants was asked to meet with the Children's Bureau to consider what might be done. This group was impressed by the results reported from California where mandatory reporting by physicians and hospitals is in force. One of the steps suggested by this group was the development of a "model law" for States.

Subsequently, the Children's Bureau called together a small technical group, largely from the legal profession to discuss and develop specifications for such legislation. Using this group's conclusions as a basis, the Children's Bureau, in conjunction with the Office of the General Counsel of the U.S. Department of Health, Education, and Welfare, drew up a statement of principles and suggested language for State legislation on reporting of the physically abused child. This material has now been widely reviewed by doctors, lawyers, social workers, juvenile court judges, hospital administrators, and interested citizens. Agreement on the need for such legislation was almost universal. On some of the specifics, differences of opinion exist. Insofar as possible, the ideas of the consultants have been incorporated and differing approaches reconciled in this pamphlet.

The sole purpose of this legislative proposal is to protect the child. By identifying the child in hazard, it is hoped that his plight will lead to protection from further abuse and to providing him with a safe and wholesome environment denied him by his rightful protectors—his parents.

PRINCIPLES AND SUGGESTED LANGUAGE FOR LEGISLATION ON REPORTING OF THE PHYSICALLY ABUSED CHILD

Many State laws that protect children from injuries and hazards already exist. As Children become more vulnerable to danger in our fast-moving, ever-changing society, other protections are needed.

This legislative guide represents the first several steps which the Children's Bureau believes must be taken to assure identification, protection, and treatment for children who have had injuries inflicted upon them by their parents or others responsible for their care. A growing number of such injuries are being reported by medical personnel who are in a position to detect them.

This guide for State legislation is a first step and would require official reporting of these cases. Since injuries of this nature are seen most frequently by physicians in hospitals, or private practice, this legislation would place upon physicians the responsibility for reporting these injuries to the appropriate law enforcement official. At present, law enforcement constitutes the only chain of services which is sure to exist in every community and within reach of any medical personnel given responsibility for this reporting. Upon receipt of such a report, the law enforcement official may follow any of several measures to assure care and pro-

tection of the child. He may make the investigation himself and place the child in protective care for which provision already has been made. Or he may refer the child's case to a voluntary or public social agency given this responsibility by law. Such an agency would make the investigation and take responsibility for the immediate care of the child, if necessary. This agency also would continue to work with the parents toward a plan for the care of the child. This plan might range from temporary foster care of the child while his parents receive help with the problems causing their abuse of him to termination of their parental rights and plans for the permanent care of the child including adoption, if indicated.

In our society, care and protection of children beyond the parental role are the responsibility of the State. This responsibility is usually discharged through social welfare agencies. Logically, the planning for the child and working with the parents in cases of abuse should rest with the public welfare department.

Many States have this responsibility spelled out in their welfare laws. The Children's Bureau legislative guide *Proposals for Drafting Principles and Suggested Language for Legislation on Public Child Welfare and Youth Services*[1] specifically defines this responsibility and makes it mandatory on the welfare department to provide this protection to children. Where States do not have legislation placing this responsibility in the public welfare department or where legislation exists but has not been implemented, considerable work and planning may be necessary to establish and set in motion the services required for protection of children in jeopardy because of actions by their parents or others responsible for their care.

In considering State legislation involving children, one basic principle should always be kept in mind:

Parents have the primary responsibility for meeting the needs of their children. Society has an obligation to help parents discharge this responsibility. Society must assume this responsibility when parents are unable to do so.

The physical abuse of children frequently follows a pattern of severe and repeated injury to very young children. The evil which this present pamphlet seeks to alleviate, and to eliminate in reported cases, is that inflicted on children by other than accidental means by those who should be least likely to engage in such conduct—their parents or other persons responsible for their care and protection and against whom such children are most likely to need the protection of society. When children are abused or mistreated by other persons, their parents or those responsible for their care and protection are expected to take whatever action may be indicated under the law. But when the family or home environment itself is unsafe for children, when it has produced their injuries and threatens them with more, the duty of the State is to provide protective services.

In order to initiate protective services, cases of such inflicted injury to children must be promptly called to the attention of appropriate agencies of government for investigation and such action as reasonably may be indicated, whether these cases are referred to social welfare agencies or to the courts.

Children who have suffered physical abuse at the hands of parents or other persons responsible for their care and protection are most frequently brought or come to the attention of physicians, either in private practice or at hospitals, for care and treatment. Physicians, because of the nature of the injuries and the case histories of these children, are in an optimum position to form reasonable, preliminary judgments as to how the injuries occurred. Although the proposed legislation is not intended to prevent or discourage voluntary reporting by others, because of the seriousness of the situation for children and for society, it makes reporting mandatory on physicians or the institutions where physicians' services are provided, as is the case with gunshot wounds. Therefore, when a physician has diagnosed a case as within the purview of the statute, neither he nor the institution should have any discretion in the matter of notifying the appropriate police authority with respect to it. Under the proposed statute, without regard for considerations growing out of the physician-patient relationship or any other matter, he would have the duty to make or cause to be made a prompt report.

The proposed legislation requires a report to be made when there is reasonable cause to suspect that physical injury was inflicted by a parent or other person responsible for the care of the child. That is to say, when there is reasonable cause to suspect that the case at hand falls within the category of evil which the statute is designed to act upon. The duty which would be imposed upon the reporter is necessarily a limited one. In its decisionmaking aspects, it is akin to that performed by a grand jury when it finds probable cause that a given individual committed a crime. But, unlike a grand jury, the reporter would not be called upon to identify any given individual, i.e., the mother, the father, etc., as the one who inflicted the injury.

Basically, the legislative language would require a reasonable judgment on the part of the reporter that the injuries are not reasonably explainable as having happened accidentally; that, therefore, they were inflicted upon the child; and that they were inflicted in the family or home setting. It contemplates, furthermore, that the reporter will base his judgment on the facts readily available to him in the conduct of his professional services. He is not expected to make any outside, independent investigation. The reporter would be concerned only with what is disclosed by him by the nature and extent of the injuries and the case history. If from these he finds a reasonable likelihood, both that the injuries were inflicted on the child by other than accidental means and that they were inflicted by a parent or other person responsible for the child's care, he would have to make a report. If he is not able to draw this hypothesis with respect to each of these facets, he is not required to report.

A physician in making his diagnosis would have to decide whether or not the case before him falls within the statute. But, in so doing, his would be the preliminary act. The report would initiate investigative machinery and might or might not result in law enforcement, social service, or judicial action. The decision to report, therefore, while it should be carefully considered and derived from the available evidence, implies no factor of infallibility. In making it, a physician would not be functioning as a judge or jury. He merely would be acting on a reasonable suspicion stemming from his professional experience and expert opinion. More than this would not be required of him.

Even with respect to physicians who are on the staffs of hospitals or similar institutions, the responsibility for initiating a report is on them and not on hospital administrative officials. The decision involved appears to be largely medical in nature. To the extent that nonmedical factors enter the diagnosis, they, too, would have been adduced by the physician. It would seem anomalous, therefore, that another person, particularly a nonmedical person who had no direct contact with the case, should have initial responsibility for this report. Moreover, when a staff physician notifies the appropriate administrative person, making a report is mandatory.

With respect to the contents of the report, the suggested legislative language is self-explanatory. In describing the child's injuries, with inclusion of other relevant data as the physician has obtained in the course of carrying out his professional duties, he is not required to specify any individual as having inflicted the injury, nor is he burdened with obtaining additional information.

As drafted, the suggested legislative language does not specify the "appropriate police authority." This would be impossible in this material in view of the nationwide diversity as to the identity of the authority having responsibility to investigate and follow up reports of this kind. If adopted as written, the initial decision as to whom to contact would rest with the physician or the institution. In most political subdivisions, the police department would be the appropriate authority. Where police departments have specialized units with qualified staff, reports could be made or referred to such units. In some jurisdictions, it might be necessary for reports to be made to the sheriff's or marshal's office, or the equivalent. Consequently, in some States it may be desirable for the legislation to identify specifically the appropriate police authority.

Moreover, the suggested legislative language relates only to the reporting of cases to the appropriate police authority. It does not prescribe the duties of such authority upon receipt of the report, nor does it provide for the responsibilities of society in the protection, care, and treatment of the child who is the subject of the report. By the same token, it makes no provision with respect to the handling of the parents or other persons responsible for the child's care and protection whose failures, as such, have forced the State to act in the affairs of the child affected. It presupposes the existence in the States of adequate, applicable legal and social machinery—laws, enforcement, and social welfare agencies and courts—and that these will be put in motion by the making of the required reports. The proposed statute presupposes a duty of the police authority to make an immediate and careful investigation of the report and to take appropriate followup action, or to refer the case to the public welfare agency for investigation and followup action when such arrangement has previously been made. This is based upon the further assumption that under the laws of the jurisdiction, a report would allege facts and conditions which could bring the child and the adults involved within the jurisdiction of the juvenile court, with the adults possibly also subject to the criminal laws of the State.

The Standard Juvenile Court Act, 1959 (sixth edition) and the *Standard Family Court Act, 1959*, indicate the kinds of jurisdictional provisions which would permit these cases to be brought within the purview of the specialized court. With respect to the investigative and followup activities that may be expected of the police, an informative and authoritative discussion is contained in the recent Children's Bureau publication, *Police Work With Children: Perspective and Principles*.[2]

Many cases will indicate the need for referral by the police authority to the public child welfare agency for protective services.

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[1] "Proposals for Drafting Principles and Suggested Language for Legislation on Public Child Welfare and Youth Services." Washington 25, D.C.: U.S. Department of Health, Education, and Welfare, Welfare Administration, Children's Bureau, 1957. 130 pp.

[2] "Police Work With Children: Perspectives and Principles." Children's Bureau Publication 399. Washington 25, D.C.: U.S. Government Printing Office, 1962. 106 pp. (58–67).

Indeed, the Children's Bureau publication *Proposals for Drafting Principles and Suggested Language for Legislation on Public Child Welfare and Youth Services* recommends that it be mandatory on the State department to investigate complaints of neglect and abuse of children and to offer social services or make proper referral to another agency.

SUGGESTED LANGUAGE FOR STATE LEGISLATION ON REPORTING OF THE PHYSICALLY ABUSED CHILD

An act for the mandatory reporting by physicians and institutions of certain physical abuse of children

1. PURPOSE

The purpose of this Act is to provide for the protection of children who have had physical injury inflicted upon them and who are further threatened by the conduct of those responsible for their care and protection. Physicians who become aware of such cases should report them to appropriate police authority thereby causing the protective services of the State to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses.

2. REPORTS BY PHYSICIANS AND INSTITUTIONS

Any physician, including any licensed doctor of medicine, licensed osteopathic physician, intern and resident, having reasonable cause to suspect that child under the age of ——[1] brought to him or coming before him for examination, care or treatment has had serious physical injury or injuries inflicted upon him other than by accidental means by a parent or other person responsible for his care, shall report or cause reports to be made in accordance with the provisions of this Act; *provided* that when the attendance of a physician with respect to a child is pursuant to the performance of services as a member of the staff of a hospital or similar institution he shall notify the person in charge of the institution or his designated delegate who shall report or cause reports to be made in accordance with the provisions of this Act.

3. NATURE AND CONSENT OF REPORT: TO WHOM MADE

An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to an appropriate police authority. Such reports shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), and any other information that the physician believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

4. IMMUNITY FROM LIABILITY

Anyone participating in good faith in the making of a report pursuant to this Act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

5. EVIDENCE NOT PRIVILEGED

Neither the physician-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding a child's injuries or the cause thereof, in any judicial proceeding resulting from a report pursuant to this Act.

6. PENALTY FOR VIOLATION

Anyone knowingly and willfully violating the provisions of this Act shall be guilty of a misdemeanor.

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[1] It is recommended that the maximum age of juvenile court jurisdiction in the State be used.

THE BATTERED-CHILD SYNDROME

(By C. Henry Kempe, M.D., Denver, Frederic N. Silverman, M.D., Cincinnati, Brandt F. Steele, M.D., William Droegemueller, M.D., and Henry K. Silver, M.D., Denver)

(NOTE.—Figures and references mentioned are not printed in RECORD.)

The battered-child syndrome, a clinical condition in young children who have received serious physical abuse, is a frequent cause of permanent injury or death. The syndrome should be considered in any child exhibiting evidence of fracture of any bone, subdural hematoma, failure to thrive, soft tissue swellings or skin bruising, in any child who dies suddenly, or where the degree and type of injury is at variance with the history given regarding the occurrence of the trauma. Psychiatric factors are probably of prime importance in the pathogenesis of the disorder, but knowledge of these factors is limited. Physicians have a duty and responsibility to the child to require a full evaluation of the problem and to guarantee that no expected repetition of trauma will be permitted to occur.

The battered-child syndrome is a term used by us to characterize a clinical condition in young children who have received serious physical abuse, generally from a parent or foster parent. The condition has also been described as "unrecognized trauma" by radiologists, orthopedists, pediatricians, and social service workers. It is a significant cause of childhood disability and death. Unfortunately, it is frequently not recognized or, if diagnosed, is inadequately handled by the physician because of hesitation to bring the case to the attention of the proper authorities.

INCIDENCE

In an attempt to collect data on the incidence of this problem, we undertook a nation-wide survey of hospitals which were asked to indicate the incidence of this syndrome in a one-year period. Among 71 hospitals replying, 302 such cases were reported to have occurred; 33 of the children died; and 85 suffered permanent brain injury. In one-third of the cases proper medical diagnosis was followed by some type of legal action. We also surveyed 77 District Attorneys who reported that they had knowledge of 447 cases in a similar one-year period. Of these, 45 died, and 29 suffered permanent brain damage; court action was initiated in 46% of this group. This condition has been a particularly common problem in our hospitals; on a single day, in November, 1961, the Pediatric Service of the Colorado General Hospital was caring for 4 infants suffering from the parent-inflicted battered-child syndrome. Two of the 4 died of their central nervous system trauma; 1 subsequently died suddenly in an unexplained manner 4 weeks after discharge from the hospital while under the care of its parents, while the fourth is still enjoying good health.

CLINICAL MANIFESTATIONS

The clinical manifestations of the battered-child syndrome vary widely from those cases in which the trauma is very mild and is often unsuspected and unrecognized, to those who exhibit the most florid evidence of injury to the soft tissues and skeleton. In the former group, the patients' signs and symptoms may be considered to have resulted from failure to thrive from some other cause or to have been produced by a metabolic disorder, an infectious process, or some other disturbance. In these patients specific findings of trauma such as bruises or characteristic roentgenographic changes as described below may be misinterpreted and their significance not recognized.

The battered-child syndrome may occur at any age, but, in general, the affected children are younger than 3 years. In some instances the clinical manifestations are limited to those resulting from a single episode of trauma, but more often the child's general health is below par, and he shows evidence of neglect including poor skin hygiene, multiple soft tissue injuries, and malnutrition. One often obtains a history of previous episodes suggestive of parental neglect or trauma. A marked discrepency between clinical findings and historical data as supplied by the parents is a major diagnostic feature of the battered-child syndrome. The fact that no new lesions, either of the soft tissue or of the bone, occur while the child is in the hospital or in a protected environment lends added weight to the diagnosis and tends to exclude many diseases of the skeletal or hemopoietic systems in which lesions may occur spontaneously or after minor trauma. Subdural hematoma, with or without fracture of the skull, is in our experience, an extremely frequent finding even in the absence of fractures of the long bones. In an occasional case the parent or parent-substitute may also have assaulted the child by administering an overdose of a drug or by exposing the child to natural gas or other toxic substances. The characteristic distribution of these multiple fractures and the observation that the lesions are in different stages of healing are of additional value in making the diagnosis.

In most instances, the diagnostic bone lesions are observed incidental to examination for purposes other than evaluation for possible abuse. Occasionally, examination following known injury discloses signs of other, unsuspected skeletal involvement. When parental assault is under consideration, radiologic examination of the entire skeleton may provide objective confirmation. Following diagnosis, radiologic examination can document the healing of lesions and reveal the appearance of new lesions if additional trauma has been inflicted.

The radiologic manifestations of trauma to growing skeletal structures are the same whether or not there is a history of injury. Yet there is reluctance on the part of many physicans to accept the radiologic signs as indications of repetitive trauma and possible abuse. This reluctance stems from the emotional unwillingness of the physician to consider abuse as the cause of the child's difficulty and also because of unfamiliarity with certain aspects of fracture healing so that he is unsure of the significance of the lesions that are present. To the informed physician, the bones tell a story the child is too young or too freightened to tell.

PSYCHIATRIC ASPECTS

Psychiatric knowledge pertaining to the problem of the battered child is meager, and the literature on the subject is almost nonexistent. The type and degree of physical attack varies greatly. At one extreme, there is direct murder of children. This is usually done by a parent or other close relative, and, in these individuals, a frank psychosis is usually readily apparent. At the other extreme are those cases where no overt harm has occurred, and one parent, more often the mother, comes to the psychiatrist for help, filled with anxiety and guilt related to fantasies of hurting the child. Occasionally the disorder has gone beyond the point of fantasy and has resulted in severe slapping or spanking. In such cases the adult is usually responsive to treatment; it is not known whether or not the disturbance in these adults would progress to the point where they would inflict significant trauma on the child.

Between these 2 extremes are a large number of battered children with mild to severe injury which may clear completely or result in permanent damage or even death after repeated attack. Descriptions of such children have been published by numerous investigators including radiologists, orthopedists, and social workers. The latter have reported on their studies of investigations of families in which children have been beaten and of their work in effecting satisfactory placement for the protection of the child. In some of these published reports the parents, or at least the parent who inflicted the abuse, have been found to be of low intelligence. Often, they are described as psychopathic or sociopathic characters. Alcoholism, sexual promiscuity, unstable marriages, and minor criminal activities are reportedly common amongst them. They are immature, impulsive, self-centered, hypersensitive, and quick to react with poorly controlled aggression. Data in some cases indicate that such attacking parents had themselves been subject to some degree of attack from their parents in their own childhood.

Beating of children, however, is not confined to people with a psychopathic personality or of borderline socioeconomic status. It also occurs among people with good education and stable financial and social background. However, from the scant data that are available, it would appear that in these cases, too, there is a defect in character structure which allows aggressive impulses to be expressed too freely. There is also some suggestion that the attacking parent was subjected to similar abuse in childhood. It would appear that one of the most important factors to be found in families where parental assault occurs is "to do unto others as you have been done by." This is not surprising; it has long been recognized by psychologists and social anthropologists that patterns of child rearing, both good and bad, are passed from one generation to the next in relatively unchanged form. Psychologically, one could describe this phenomenon as an identification with the aggressive parent, this identification occurring despite strong wishes of the person to be different. Not infrequently the beaten infant is a product of an unwanted pregnancy, a pregnancy which began before marriage, too soon after marriage, or at some other time felt to be extremely inconvenient. Sometimes several children in one family have been beaten; at other times one child is singled out for attack while others are treated quite lovingly. We have also seen instances in which the sex of the child who is severely attacked is related to very specific factors in the context of the abusive parent's neurosis.

It is often difficult to obtain the information that a child has been attacked by its parent. To be sure, some of the extremely sociopathic characters will say, "Yeah, Johnny would not stop crying so I hit him. So what? He cried harder so I hit him harder." Sometimes one spouse will indicate that the other was the attacking person, but more often there is complete denial of any knowledge of injury to the child and the maintenance of an attitude of complete innocence on the part of both parents. Such attitudes are maintained despite the fact that evidence of physical attack is obvious and that the trauma could not have happened in any other way. Denial by the parents of any involvement in the abusive episode may, at times, be a conscious, protective device, but in other instances it may be a denial based upon psychological repression. Thus, one mother who seemed to have been the one who injured her baby had complete amnesia for the episodes in which her aggression burst forth so strikingly.

In addition to the reluctance of the parents to give information regarding the attacks on their children, there is another factor which is of great importance and extreme interest as it relates to the difficulty in delving into the problem of parental neglect and abuse. This is the fact that physicians have great difficulty both in believing that parents could have attacked their children and in undertaking the essential questioning of parents on this subject. Many physicians find it hard to believe that such an attack could have occurred and they attempt to obliterate such suspicions from their minds, even in the face of obvious circumstantial evidence. The reason for this is not clearly understood. One possibility is that the arousal of the physician's antipathy in response to such situations is so great that it is easier for the physician to deny the possibility of such attack than to have to deal with the excessive anger which surges up in him when he realizes the truth of the situation. Furthermore, the physician's training and personality usually makes it quite difficult for him to assume the role of policeman or district attorney and start questioning patients as if he were investigating a crime. The humanitarian-minded physician finds it most difficult to proceed when he is met with protestations of innocence from the aggressive parent, especially when the battered child was brought to him voluntarily.

Although the technique wherein the physician obtains the necessary information in cases of child beating is not adequately solved, certain routes of questioning have been particularly fruitful in some cases.

One spouse may be asked about the other spouse in relation to unusual or curious behavior or for direct description of dealings with the baby. Clues to the parents' character and pattern of response may be obtained by asking questions about sources of worry and tension. Revealing answers may be brought out by questions concerning the baby such as, "Does he cry a lot? Is he stubborn? Does he obey well? Does he eat well? Do you have problems in controlling him?" A few general questions concerning the parents' own ideas of how they themselves were brought up may bring forth illuminating answers; interviews, with grandparents or other relatives may elicit additional suggestive data. In some cases, psychological tests may disclose strong aggressive tendencies, impulsive behavior, and lack of adequate mechanisms of controlling impulsive behavior. In other cases only prolonged contact in a psychotherapeutic milieu will lead to a complete understanding of the background and circumstances surrounding the parental attack. Observation by nurses or other ancillary personnel of the behavior of the parents in relation to the hospitalized infant is often extremely valuable.

The following 2 condensed case histories depict some of the problems encountered in dealing with the battered-child syndrome.

REPORT OF CASES

CASE 1.—The patient was brought to the hospital at the age of 3 months because of enlargement of the head, convulsions, and spells of unconsciousness. Examination revealed bilateral subdural hematomas, which were later operated upon with great improvement in physical status. There had been a hospital admission at the age of one month because of a fracture of the right femur, sustained "when the baby turned over in the crib and caught its leg in the slats." There was no history of any head trauma except "when the baby was in the other hospital a child threw a little toy at her and hit her in the head." The father had never been alone with the baby, and the symptoms of difficulty appeared to have begun when the mother had been caring for the baby. Both parents showed concern and requested the best possible care for their infant. The father, a graduate engineer, related instances of impulsive behavior, but these did not appear to be particularly abnormal, and he showed appropriate emotional concern over the baby's appearance and impending operation. The mother, aged 21, a high school graduate, was very warm, friendly, and gave all the appearance of having endeavored to be a good mother. However, it was noted by both nurses and physicians that she did not react as appropriately or seem as upset about the baby's appearance as did her husband. From interviews with the father and later with the mother, it became apparent that she had occasionally shown very impulsive, angry behavior, sometimes acting rather strangely and doing bizarre things which she could not explain nor remember. This was their first child and had resulted from an unwanted pregnancy which had occurred almost immediately after marriage and before the parents were ready for it. Early in pregnancy the mother had made statements about giving the baby away, but by the time of delivery she was apparently delighted with the baby and seemed to be quite fond of it. After many interviews, it became apparent that the mother had identified herself with her own mother who had also been unhappy with her first pregnancy and had frequently beaten her children. Despite very strong conscious wishes to be a kind, good mother, the mother of our patient was evidently repeating the behavior of her own mother toward herself. Although an admission of guilt was not obtained, it seemed likely that the mother was the one responsible for attacking the child; only after several months of treatment did the amnesia for the aggressive outbursts begin to lift. She responded well to treatment, but for a prolonged period after the infant left the hospital the mother was not allowed alone with her.

CASE 2.—This patient was admitted to the hospital at the age of 13 months with signs of central nervous system damage and was found to have a fractured skull. The parents were questioned closely, but no history of trauma could be elicited. After one week in the hospital no further treatment was deemed necessary, so the infant was discharged home in the care of her mother, only to return a few hours later with hemiparesis, a defect in vision, and a new depressed skull fracture on the other side of the head. There was no satisfactory explanation for the new skull fracture, but the mother denied having been involved in causing the injury, even though the history revealed that the child had changed markedly during the hour when the mother had been alone with her. The parents of this child were a young, middle-class couple, who in less than 2 years of marriage, had been separated, divorced, and remarried. Both felt that the infant had been unwanted and had come too soon in the marriage. The mother gave a history of having had a "nervous breakdown" during her teens. She had received psychiatric assistance because she had been markedly upset early in the pregnancy. Following an uneventful delivery, she had been depressed and had received further psychiatric aid and 4 electroshock treatments. The mother tended to gloss over the unhappiness during the pregnancy and stated that she was quite delighted when the baby was born. It is interesting to note that the baby's first symptoms of difficulty began the first day after its first birthday, suggesting an "anniversary reaction." On psychological and neurological examination, this mother showed definite signs of organic brain damage probably of lifelong duration and possibly related to her own prematurity. Apparently her significant intellectual defects had been camouflaged by an attitude of coy, naive, cooperative sweetness which distracted attention from her deficits. It was noteworthy that she had managed to complete a year of college work despite a borderline I.Q. It appeared that the impairment in mental functioning was probably the prime factor associated with poor control of aggressive impulses. It is known

that some individuals may react with aggressive attack or psychosis when faced with demands beyond their intellectual capacity. This mother was not allowed to have unsupervised care of her child.

Up to the present time, therapeutic experience with the parents of battered children is minimal. Counseling carried on in social agencies has been far from successful or rewarding. We know of no reports of successful psychotherapy in such cases. In general, psychiatrists feel that treatment of the so-called psychopath or sociopath is rarely successful. Further psychological investigation of the character structure of attacking parents is sorely needed. Hopefully, better understanding of the mechanisms involved in the control and release of aggressive impulses will aid in the earlier diagnosis, prevention of attack, and treatment of parents, as well as give us better ability to predict the likelihood of further attack in the future. At present, there is no safe remedy in the situation except the separation of battered children from their insufficiently protective parents.

TECHNIQUES OF EVALUATION

A physician needs to have a high initial level of suspicion of the diagnosis of the battered-child syndrome in instances of subdural hematoma, multiple unexplained fractures at different stages of healing, failure to thrive, when soft tissue swellings or skin bruising are present, or in any other situation where the degree and type of injury is at variance with the history given regarding its occurrence or in any child who dies suddenly. Where the problem of parental abuse comes up for consideration, the physician should tell the parents that it is his opinion that the injury should not occur if the child were adequately protected, and he should indicate that he would welcome the parents giving him the full story so that he might be able to give greater assistance to them to prevent similar occurrences from taking place in the future. The idea that they can now help the child by giving a very complete history of circumstances surrounding the injury sometimes helps the parents feel that they are atoning for the wrong that they have done. But in many instances, regardless of the approach used in attempting to elicit a full story of the abusive incident(s), the parents will continue to deny that they were guilty of any wrongdoing. In talking with the parents, the physician may sometimes obtain added information by showing that he understands their problem and that he wishes to be of aid to them as well as to the child. He may help them reveal the circumstances of the injuries by pointing out reasons that they may use to explain their action.

If it is suggested that "new parents sometimes lose their tempers and are a little too forceful in their actions," the parents may grasp such a statement as the excuse for their actions. Interrogation should not be angry or hostile but should be sympathetic and quiet with the physician indicating his assurance that the diagnosis is well established on the basis of objective findings and that all parties, including the parents, have an obligation to avoid a repetition of the circumstances leading to the trauma. The doctor should recognize that bringing the child for medical attention in itself does not necessarily indicate that the parents were innocent of wrongdoing and are showing proper concern; trauma may have been inflicted during times of uncontrollable temporary rage. Regardless of the physician's personal reluctance to become involved, complete investigation is necessary for the child's protection so that a decision can be made as to the necessity of placing the child away from the parents until matters are fully clarified.

Often, the guilty parent is the one who gives the impression of being the more normal. In 2 recent instances young physicians have assumed that the mother was at fault because she was unkempt and depressed while the father, in each case a military man with good grooming and polite manners, turned out to be the psychopathic member of the family. In these instances it became apparent that the mother had good reason to be depressed.

RADIOLOGIC FEATURES

Radiologic examination plays 2 main roles in the problem of child-abuse. Initially, it is a tool for case finding, and, subsequently, it is useful as a guide in management.

The diagnostic signs result from a combination of circumstances: age of patient, nature of the injury, the time that has elapsed before the examination is carried out, and whether the traumatic episode was repeated or occurred only once.

Age.—As a general rule, the children are under 3 years of age; most, in fact, are infants. In this age group the relative amount of radiolucent cartilage is great; therefore, anatomical disruptions of cartilage without gross deformity are radiologically invisible or difficult to demonstrate (Fig. 1a). Since the periosteum of infants is less securely attached to the underlying bone than in older children and adults, it is more easily and extensively stripped from the shaft by hemorrhage than in older patients. In infancy massive subperiosteal hematomas may follow injury and elevate the active periosteum so that new bone formation can take place around and remote from the parent shaft (Figs. 1c and 2).

Nature of Injury.—The ease and frequency with which a child is seized by his arms or legs make injuries to the appendicular skeleton the most common in this syndrome. Even when bony injuries are present elsewhere, e.g., skull, spine, or ribs, signs of injuries to the extremities are usually present. The extremities are the "handles" for rough handling, whether the arm is pulled to bring a reluctant child to his feet or to speed his ascent upstairs or whether the legs are held while swinging the tiny body in a punitive way or in an attempt to enforce corrective measures. The forces applied by an adult hand in grasping and seizing usually involve traction and torsion; these are the forces most likely to produce epiphyseal separations and periosteal shearing (Figs. 1 and 3). Shaft fractures result from direct blows or from bending and compression forces.

Time After Injury That the X-Ray Examination Is Made.—This is important in evaluating known or suspected cases of child-abuse. Unless gross fractures, dislocations, or epiphyseal separations were produced, no signs of bone injury are found during the first week after a specific injury. Reparative changes may first become manifest about 12 to 14 days after the injury and can increase over the subsequent weeks depending on the extent of initial injury and the degree of repetition (Fig. 4). Reparative changes are more active in the growing bones of children than in adults and are reflected radiologically in the excessive new bone reaction. Histologically, the reaction has been confused with neoplastic change by those unfamiliar with the vigorous reactions of young growing tissue.

Repetition of Injury.—This is probably the most important factor in producing diagnostic radiologic signs of the syndrome. The findings may depend on diminished immobilization of an injured bone leading to recurring macro- and microtrauma in the area of injury and healing, with accompanying excessive local reaction and hemorrhage, and ultimately, exaggerated repair. Secondly, repetitive injury may produce bone lesions in one area at one time, and in another area at another, producing lesions in several areas and in different stages of healing (Fig. 3).

Thus, the classical radiologic features of the battered-child syndrome are usually found in the appendicular skeleton in very young children. There may be irregularities of mineralization in the metaphyses of some of the major tubular bones with slight malalignment of the adjacent epiphyseal ossification center. An overt fracture may be present in another bone. Elsewhere, there may be abundant and active but well-calcified subperiosteal reaction with widening from the shaft toward one end of the bone. One or more bones may demonstrate distinctly thickened cortices, residuals of previously healed periosteal reactions. In addition, the radiographic features of a subdural hematoma with or without obvious skull fracture may be present.

Differential Diagnosis.—The radiologic features are so distinct that other diseases generally are considered only because of the reluctance to accept the implications of the bony lesions. Unless certain aspects of bones healing are considered, the pertinent findings may be missed. In many cases roentgenographic examination is only undertaken soon after known injury; if a fracture is found, reexamination is done after reduction and immobilization; and, if satisfactory positioning has been obtained, the next examination is usually not carried out for a period of 6 weeks when the cast is removed. Any interval films that may have been taken prior to this time probably would have been unsatisfactory since the fine details of the bony lesions would have been obscured by the cast. If fragmentation and bone production are seen, they are considered to be evidence of repair rather than manifestations of multiple or repetitive trauma. If obvious fracture or the knowledge of injury is absent, the bony changes may be considered to be the result of scurvy, syphilis, infantile cortical hyperostoses, or other conditions. The distribution of lesions in the abused child is unrelated to rates of growth; moreover, an extensive lesion may be present at the slow-growing end of a bone which otherwise is normally mineralized and shows no evidence of metabolic disorder at its rapidly growing end.

Scurvy is commonly suggested as an alternative diagnosis, since it also produces large calcifying subperiosteal hemorrhages due to trauma and local exaggerations most marked in areas of rapid growth. However, scurvy is a systemic disease in which all of the bones show the generalized osteoporosis associated with the disease. The dietary histories of most children with recognized trauma have not been grossly abnormal, and whenever the vitamin C content of the blood has been determined, it has been normal.

In the first months of life *syphilis* can result in metaphyseal and periosteal lesions similar to those under discussion. However, the bone lesions of syphilis tend to be symmetrical and are usually accompanied by other stigmata of the disease. Serological tests should be obtained in questionable cases.

Osteogenesis imperfecta also has bony changes which may be confused with those due to trauma, but it too is a generalized disease, and evidence of the disorder should be present in the bones which are not involved in the disruptive-productive reaction. Even when skull fractures are present, the mosaic ossification pattern of the cranial vault, characteristic of osteogenesis, imperfecta, is not seen in the battered-child syndrome. Fractures in osteogenesis imperfecta are commonly of the shafts; they usually occur in the metaphyseal regions in the battered-child syndrome. Blue sclerae, skeletal deformities, and a family history of similar abnormalities were absent in reported instances of children with unrecognized trauma.

Productive diaphyseal lesions may occur in *infantile cortical hyperostosis*, but the metaphyseal lesions of unrecognized trauma

easily serve to differentiate the 2 conditions. The characteristic mandibular involvement of infantile cortical hyperostosis does not occur following trauma although obvious mandibular fracture may be produced.

Evidence that repetitive unrecognized trauma is the cause of the bony changes found in the battered-child syndrome is, in part, derived from the finding that similar roentgenographic findings are present in *paraplegic patients with sensory deficit* and in patients with *congenital indifference to pain;* in both of whom similar pathogenic mechanisms operate. In paraplegic children unappreciated injuries have resulted in radiologic pictures with irregular metaphyseal rarefactions, exaggerated subperiosteal new bone formation, and ultimate healing with residual external cortical thickening comparable to those in the battered-child syndrome. In paraplegic adults, excessive callus may form as a consequence of the lack of immobilization, and the lesion may be erroneously diagnosed as osteogenic sarcoma. In children with congenital indifference (or insensitivity) to pain, identical radiologic manifestations may be found.

To summarize, the radiologic manifestations of trauma are specific, and the metaphyseal lesions in particular occur in no other disease of which we are aware. The findings permit a radiologic diagnosis even when the clinical history seems to refute the possibility of trauma. Under such circumstances, the history must be reviewed, and the child's environment, carefully investigated.

MANAGEMENT

The principal concern of the physician should be to make the correct diagnosis so that he can institute proper therapy and make certain that a similar event will not occur again. He should report possible willful trauma to the police department or any special children's protective service that operates in his community. The report that he makes should be restricted to the objective findings which can be verified and, where possible, should be supported by photographs and roentgenograms. For hospitalized patients, the hospital director and the social service department should be notified. In many states the hospital is also required to report any case of possible unexplained injury to the proper authorities. The physician should acquaint himself with the facilities available in private and public agencies that provide protective services for children. These include children's humane societies, divisions of welfare departments, and societies for the prevention of cruelty to children. These, as well as the police department, maintain a close association with the juvenile court. Any of these agencies may be of assistance in bringing the case before the court which alone has the legal power to sustain a dependency petition for temporary or permanent separation of the child from the parents' custody. In addition to the legal investigation, it is usually helpful to have an evaluation of the psychological and social factors in the case; this should be started while the child is still in the hospital. If necessary, a court order should be obtained so that such investigation may be performed.

In many instances the prompt return of the child to the home is contraindicated because of the threat that additional trauma offers to the child's health and life. Temporary placement with relatives or in a well-supervised foster home is often indicated in order to prevent further tragic injury or death to a child who is returned too soon to the original dangerous environment. All too often, despite the apparent cooperativeness of the parents and their apparent desire to have the child with them, the child returns to his home only to be assaulted again and suffer permanent brain damage or death. Therefore, the bias should be in favor of the child's safety; everything should be done to prevent repeated trauma, and the physician should not be satisfied to return the child to an environment where even a moderate risk of repetition exists.

SUMMARY

The battered-child syndrome, a clinical condition in young children who have received serious physical abuse, is a frequent cause of permanent injury or death. Although the findings are quite variable, the syndrome should be considered in any child exhibiting evidence of possible trauma or neglect (fracture of any bone, subdural hematoma, multiple soft tissue injuries, poor skin hygiene, or malnutrition) or where there is a marked discrepancy between the clinical findings and the historical data as supplied by the parents. In cases where a history of specific injury is not available, or in any child who dies suddenly, roentgenograms of the entire skeleton should still be obtained in order to ascertain the presence of characteristic multiple bony lesions in various stages of healing.

Psychiatric factors are probably of prime importance in the pathogenesis of the disorder, but our knowledge of these factors is limited. Parents who inflict abuse on their children do not necessarily have psychopathic or sociopathic personalities or come from borderline socioeconomic groups, although most published cases have been in these categories. In most cases some defect in character structure is probably present; often parents may be repeating the type of child care practiced on them in their childhood.

Physicians, because of their own feelings and their difficulty in playing a role that they find hard to assume, may have great reluctance in believing that parents were guilty of abuse. They may also find it difficult to initiate proper investigation so as to assure adequate management of the case. Above all, the physician's duty and responsibility to the child requires a full evaluation of the problem and a guarantee that the expected repetition of trauma will not be permitted to occur.

CUMULATIVE CHILD ABUSE REPORT

HENNEPIN COUNTY WELFARE DEPARTMENT (MINNESOTA)

January 1, 1972

Reference is made to Minnesota Statute 1961, Section 626.52 as amended by Laws 1963 (7–1–63), Chapter 484, and by Laws Chapter 759, 1965 (7–1–65). An act relating to the protection of the abused and battered child; requiring the reporting of injuries or evidence of injuries appearing to arise from the maltreatment of minors.

Referrals to Child Protective Services, Hennepin County Welfare Department, from July 1, 1963, to December 31, 1971, totaled 383 children abused from 358 families. These referrals occured as follows:

Dates	Number of— Children	Cases	Incidents
July 1 to Dec. 31, 1963	6		
Jan. 1 to Dec. 31, 1964	15		
Jan. 1 to Dec. 31, 1965	9		
Jan. 1 to Dec. 31, 1966	22		
Jan. 1 to Dec. 31, 1967	34		
Jan. 1 to Dec. 31, 1968	56		
Jan. 1 to Dec. 31, 1969	61		
Jan. 1 to Dec. 31, 1970	68		
Jan. 1 to Dec. 31, 1971	112	107	116

Classification of the extent of abuse:

1. Battered-child syndrome, i.e., repetitive injuries—41 incidents.

2. Physical abuse, severe, occurring one time. The beating resulted in lacerations or fractures—55 incidents.

3. Physical abuse, moderate. No fractures but bruises on face and body and beating usually occurring more than once. The abuse usually occurred as a result of severe uncontrolled discipline methods—287 incidents.

Of the 383 children referred, 14 died from unexplained injuries.

Legal disposition on death cases referred:

County Attorney and police investigation—14.

Criminal charges were filed against the alleged perpetrator in the deaths of five children.

1—Perpetrator committed to Anoka State Hospital.

2—Perpetrators found guilty; sentenced to prison.

1—Perpetrator indicted for murder; committed to St. Peter State Hospital.

1—Perpetrator found not guilty of manslaughter but guilty of child neglect and committed to 90 days in the County Workhouse.

4—Insufficient evidence to file charges.

Legal action on cases where child was injured but alive (370 children):

307—no court action of any kind.

6—cases handled by criminal court for prosecution of an adult assaulting a child. All found guilty (1 mother, 2 boyfriends, 1 stepfather, 1 father).

56—children referred to Juvenile Court on basis of neglect.

53—children found to be neglected and legal custody given to Hennepin County Welfare Department.

2—alleged child-abuse cases were dismissed by Juvenile Court for evidence without foundation.

1—child found to be neglected and parental rights terminated.

Living arrangements of children referred to Child Protective Services as physically abused:

255—remained at home or returned home from hospital (12 returned home under legal custody of Welfare Department).

33—placed in foster homes by court order (legal custody of child given to Welfare Department).

45—placed in foster homes by parents' voluntary consent.

23—placed with relatives by parents' voluntary consent.

14—children deceased.

Who allegedly attacked child in number of incidents of abuse reported?

	Previous years, 1963–70	1971	Total
Mother	96	30	126
Father	69	27	96
Both	8	0	8
Stepparents	30	15	45
Nonrelatives	18	6	24
Mother's BF/father's GF	33	15	48
Siblings or other relatives	7	3	10
Unknown	13	20	33
Ruled out			
Total incidents reported	274	116	390

The ages of children physically abused ranged from 17 days to 16 years, with 63% under school age. The ages were as follows:

	Amount
Under 1	86
Over 1—Under 2	52
Over 2—Under 3	61
Over 3—Under 4	42
Over 4—Under 5	11
Total	[1] 252
Over 5—Under 7	51
Over 7	80
Total	131
Grand total	383

[1] 65.7 percent.

Origin of incidents of physically abused children reported since the law was passed:

	Previous years, July 1, 1963, to Dec. 31, 1969	1970	1971	Total
Neighbors	8	7	6	21
Private physicians	34	8	16	58
Private hospitals	5	2	2	9
Hennepin County General Hospital	81	9	17	107
University hospitals	1	0	0	1
Police	25	14	13	52
Within agency (other units of HCWD)	4	7	25	36
Relatives	9	8	23	40
Public health nurse	4	1	0	5
School nurse	4	0	0	4
Private nurse	2	1	0	3
School social worker	13	5	7	25
School principal or teacher	2	1	2	5
Other county welfare departments	1	0	1	2
Probation officers	3	1	1	5
Day care mother or nursery school	1	2	0	3
Private welfare agencies	2	0	0	2
Community health care clinics	3	4	2	9
Self-referral (abused child himself)	1	1	1	3
Total	203	71	116	390

	1967	1968	1969	1970	1971
Child abuse:					
Children	34	56	61	68	112
Male	22	32	38	46	70
Female	12	24	23	22	42

INJURIES SUSTAINED (1 OR COMBINATION OF BELOW)

	Previous years	1971
Bruises, welts	170	78
Malnutrition	6	0
Burns, scalding	9	1
Abrasions, lacerations	40	16
Wounds, cuts, punctures	17	7
Bone fracture(s)	20	14
Brain damage	7	0
Skull fractures	10	8
Bites	2	1
Exposure	4	0
Hematoma	6	2
Internal injuries	2	4
Attempted dismemberment		1
Sprains, dislocations		2
Choking, attempted drowning		2
Poisoning		1
None apparent	5	8

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

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 2. (a) The Secretary of Health, Education, and Welfare (hereinafter referred to in this Act as the "Secretary") is authorized and directed to establish an office to be known as the "National Center on Child Abuse and Neglect" (hereinafter referred to in this section as the "Center").

(b) The Secretary through the Center shall—

(1) compile a listing of accidents involving children who have not obtained 18 years of age

(2) compile, analyze, and publish a summary annually of recently conducted and currently conducted research on child abuse and neglect;

(3) develop and maintain an information clearinghouse on all programs, including private programs showing points of success, for the prevention, identification, and treatment of child abuse and neglect; and

(3) compile and publish training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

DEMONSTRATION PROGRAM FOR THE PREVENTION, IDENTIFICATION, AND TREATMENT OF CHILD ABUSE AND NEGLECT

SEC. 3. (a) The Secretary is authorized and directed to make grants to, and enter into contracts with, public agencies or nonprofit private organizations for demonstration programs designed to prevent, identify, and treat child abuse and neglect. Grants under this section may be used—

(1) for the development and establishment of training programs for professional and para-professional personnel in the fields of medicine, law, and social work who are engaged in, or intend to work in the field of the prevention, identification, and treatment of child abuse and neglect;

(2) for furnishing services of teams of professional and para-professional personnel, who are trained in the prevention, identification, and treatment of child abuse and neglect cases, on a consulting basis to small communities where such services are not available; and

(3) for such other innovative projects that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve.

(b) There are authorized to be appropriated $10 million for the fiscal year ending June 30, 1973, and $20 million for each of the succeeding four fiscal years.

THE NATIONAL COMMISSION ON CHILD ABUSE AND NEGLECT

SEC. 4. (a) There is hereby established a National Commission on Child Abuse and Neglect.

(b) The Commission shall be composed of fifteen members to be appointed by the President from among persons who by reason of experience or training in the field of preventing and treating child abuse and neglect are especially qualified to serve on the Commission. The Secretary and the Director of the Office of Child Development shall be ex officio members of the Commission. Appointment of the Commission shall be completed not later than 60 days following enactment of this act.

(c) (1) The President shall designate one of the members to serve as chairman and one to serve as vice chairman.

(2) Any vacancy in the Commission shall not affect its powers. Eight members of the Commission shall constitute a quorum.

(d) (1) The Commission shall make a complete and full study and investigation of—

(A) the effectiveness of existing child abuse and neglect reporting laws and ordinances, with special consideration of the impact, if any, of penalties of varying severity for child abuse, on the effectiveness of provisions requiring the reporting of child abuse by medical doctors and other professionals.

(B) the proper role of the Federal Government in assisting State and local public and private efforts to prevent, identify, and treat cases of child abuse and neglect.

(2) The Commission shall transmit to the President and to the Congress not later than one year after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations, including recommendations for legislation, as it deems advisable.

(e) (1) 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 title, 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.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed 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 Act.

(3) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(A) 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

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $50 a day for individuals.

(4) The Commission is authorized to enter into contracts with Federal, State, and local public agencies, and with private, nonprofit 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.

(f) Members of the Commission shall receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Commission and 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.

(g) There are hereby authorized to be appropriated such sums as may be necessary, not to exceed a total of $———— to carry out the provisions of this section.

(h) On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

CHILD ABUSE PREVENTION PROGRAMS UNDER SOCIAL SECURITY ACT

SEC. 5. Section 422 (a) (1) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (B) thereof, and

(2) by adding after subparagraph (C) thereof the following new subparagraph:

"(D) effective July 1, 1973, includes, with respect to the prevention of child abuse, a special program under which—

"(i) effective procedures are established for the discovery of instances of child abuse and neglect, and for the prevention, remedying, and otherwise treating of the problem of child abuse and neglect (including procedures to assure the enforcement of State and local laws dealing with child abuse),

"(ii) there is collected and reported to the Secretary and to the public such information and data (in accordance with regulations of the Secretary) which adequately and fully reflect the extent to which laws of the State (and the enforcement of such laws) are adequate in meeting the problem of child abuse in the State, and the steps, if any, which are being taken to assure the adequacy of such laws and the enforcement thereof, and

"(iii) cooperative arrangements are entered into with the State health authority, the State agency primarily responsible for State supervision of public schools, and other appropriate agencies to assure to the maximum extent feasible that instances of child abuse will be reported to the appropriate agencies within the State and that appropriate services and action are taken by such agencies with respect to each instance of child abuse so reported, and".

Mr. RANDOLPH. Mr. President, it is a privilege to join the able Senator from Minnesota (Mr. MONDALE) in sponsoring

this important legislation. This is a step—a very necessary first step—in the direction of greater rights and protection for children who have been battered, neglected, and abused.

On February 15 I spoke of the alarming increases in the number of incidences of child abuse. However, there is much that is still unknown about this perplexing problem. Literally thousands of cases of child abuse and neglect go undetected and unreported each year.

There are statutes and programs in all 50 States concerning child abuse. It appears, however, that existing programs are not providing the direction and coordination needed to deal with this crisis so damaging to our children and their families. There is an urgent requirement for greater resources to investigate the depth of the problem; establish an information and research program; and to develop centers for the care of abused children and treatment of abusive parents.

It is my hope that through a concerted Federal effort the proper direction and emphasis can be added to laws and programs already in existence to aid in lessening the spread of child abuse. Better coordinated reporting procedures and a greater public awareness will perhaps bring more undetected cases into the open, allowing for the treatment of children and families.

This legislation provides a springboard to more far-reaching action and a greater understanding of the problem. I again commend the Senator from Minnesota (Mr. MONDALE) for his leadership in the area of children's rights and his foresight in proposing this vital legislation.

I ask unanimous consent to have printed in the RECORD at this point an article that appeared in the Huntington Herald Dispatch and Advertiser on February 17, which describes the effective child abuse program being conducted by the Department of Child Welfare in the Ashland, Ky., region.

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

[From the Huntington (W. Va.) Herald Dispatch and Advertiser, Feb. 17, 1973]

REPORTS OF CHILD ABUSE INCREASING

(By Jim Warren)

ASHLAND, KY.—"It was only a little fall, so he can't really be hurt, can he?"

The nervous aunt repeated that question over and over as doctors examined her battered seven-year-old nephew.

She had brought the barely conscious boy into the hospital emergency room only moments before. He had, she said, fallen from the front steps of his parents home while playing.

But the child was suffering from a ruptured spleen, concussion and cuts and bruises over his entire body. To the physicians, the injuries seemed far too severe for "only a little fall."

X-rays showed evidence of other, older injuries; partially healed fractures, calcium deposits around joints and crushed blood vessels.

The boy was rushed to surgery and a call was placed to the Kentucky Department of Child Welfare.

That's just one way Charlie Bonta, Child Welfare area administrator, hears about suspected cases of child abuse. Other calls come from teachers, concerned citizens and police.

And Child Welfare is getting more and more such calls from every source.

Child abuse, once perhaps thought to be an exclusively urban problem, is increasing in this section of Kentucky and over the state as a whole.

According to Bonta, Child Welfare Region F (including Boyd, Greenup, Lawrence and 15 other Eastern Kentucky counties) reported eight suspected cases of child abuse in 1971. Last year, that figure jumped to 71 cases.

Between July 1, 1971 and June 30, 1972, more than 300 suspected cases were reported in the state.

"Child abuse is a problem that's been with us a long time, but it's remained hidden," Bonta said. "Now our department has the staff and the laws to bring it out into the open."

Not all the cases are confirmed, but the rapid increase in the number of reported cases has alarmed Child Welfare officials.

"We really have no idea how much child abuse actually goes on." Bonta pointed out. "The reported cases are the only ones we ever hear about, and I'm convinced that incidence level is much higher than the reporting level."

According to Bonta, the case described above is a fairly common one. Investigation showed the boy had been repeatedly abused by his father and the abuse was never reported because of efforts by the aunt and other family members to protect the father.

Shielding of abusive parents is only one reason why many child abuses cases go unreported.

Citizens often are reluctant to report the suspected child abuse because they fear the notoriety, court proceedings and other actions that might result. In addition, many fear they are wrong and that they might be sued by the parents involved.

Kentucky law not only requires anyone having knowledge of child abuse to report it, but provides punishment for those who refuse to do so. In addition, the law provides immunity for persons who report abuse cases.

Under that law, a citizen can file a report if he has any reason to believe a child is being abused, whether or not he has seen actual abuse take place.

"Despite the law and the protection built into it, we still have difficulty getting evidence in abuse cases," Bonta said. "Abusers tend to deny their actions, other family members will try to protect the abusive parent and the child often is too young to give testimony."

According to psychologists, abusive parents fall into several categories and harm their children for a variety of reasons. Usually the abuse is a symptom fo the parent's own personal problems, which may range from violent schizophrenia to immature character disorders.

Some abusive parents suffer from psychotic tendencies and their abuse is unpredictable and sometimes violent. Infanticide and child homicide often result in such cases.

Others abuse because of a generally hostile character that may stem from personal inadequacy, alcoholism and financial problems.

Some parents are cold, rigid and simply uable to feel love or protectiveness toward their children.

In many cases the abuse results from marital conflicts that are displaced onto the child. Often the abused child was premaritally or extramaritally conceived.

Bonta pointed out that abusers are not always parents, but may be relatives or persons outside the family.

While physical injury is the most immediate danger for the abused child, he also may suffer emotional harm that can affect him throughout life. An abused child may suffer behavioral disorders such as bed-wetting and truancy that make it difficult to place him in a foster home.

Not infrequently, an abused child will grow up to become an abusive parent himself.

According to Bonta, Child Welfare may take various approaches in abuse cases.

In extreme cases, where the child is in serious danger, the department may seek court authority to remove the child to a foster home, or to the home of a relative. If he needs medical attention, the child may be committed to Child Welfare and placed in a hospital.

In most cases, however, the department tries to keep the child in the home and treat the parent's emotional or other problems that have caused the abuse.

"We've become increasingly aware that removal of the child and prosecution of the parent does not solve the problem of the victimized child or of the family itself," Bonta said.

"We feel that removal of the child often can splinter the family completely and cause more problems than leaving him in the home. Our main objective is to protect the child and treat the parent to see that abuse doesn't happen again."

Treatment procedures vary and are tailored to the particular case involved. Usually, the department's social workers try to develop a "supportive relationship" with the parent, letting him release verbally on the worker the fears and stresses that otherwise might be transferred to the child.

Such treatment may involve relatives, neighbors, teachers, physicians, volunteers and workers from the Kentucky Department of Mental Health.

In time, the parent is able to resolve his hostility and begin to meet the needs of the child.

"Treatment may continue for long periods, sometimes until the child reaches adolescence," Bonta said.

"With this type of approach, we've had an extremely high rate of success and few cases of recurring abuse. With the staff available, we're really optimistic that progress can be made in almost every case."

Mr. BEALL. Mr. President, the shocking revelations brought about by increased cases of child abuse have aroused public sensibility and created much social concern. Although there are no reliable statistics, it is estimated that the probable national incidence of serious child abuse is more than 10,000 cases a year.

This concern is evidenced by the fact that in the past decade all States have enacted child abuse laws providing for reporting by physicians and other specified persons of suspected cases of child abuse to the proper authorities. In 46 States this reporting law is mandatory. My own State of Maryland enacted a mandatory reporting law in June of 1966. At the same time a Central Registry of Incidents of Suspected Child Abuse was established in order to collect and analyze data on suspected child abuse. During the first years of operation the number of incidents reported increased sharply each year. However, in 1971 the increase leveled off and only 3 percent more incidents were reported in 1971 compared to 1970.

It is evident from the increase in reported cases that the State laws are bringing cases of child abuse before the public. However, very little is known about the reasons why such acts are committed and little data is availablle on either the abused child or the perpetrator. It is for this reason that I am pleased to

join the distinguished chairman of the Subcommittee on Children and Youth (Mr. MONDALE), in sponsoring the "Child Abuse Prevention Act."

This legislation would aid the present efforts by establishing a National Center on Child Abuse and Neglect to compile and analyze data on this problem and develop and maintain an information clearinghouse on all programs. In addition, a National Commission on Child Abuse and Neglect is established to study the effectiveness of existing laws and ordinances to investigate the proper role of the Federal Government in assisting the States and local and private efforts to provide for the prevention, identification, and treatment of child abuse.

I am pleased that hearings will be held on this legislation not only to bring a focus to this problem, but to enable us to determine the most effective method of complementing existing law and efforts in this area.

By Mr. COOK:

S. 1192. A bill to establish a Federal Amateur Sports Commission. Referred to the Committee on Commerce.

Mr. COOK. Mr. President, there are few Members of this body, nor many Americans who are unaware of the chaotic situation in the amateur sports world in this country. Last year's Olympic games witnessed a collection of mistakes which, it seems, only the Government could match. Our young, dedicated athletes, competing only out of pride and a desire to represent the United States in international competition, were frustrated at every turn by coaching blunders. The misinterpretation of rules, and officiating which was totally incompetent.

Only recently, the long lasting feud between the AAU and the NCAA over preeminence in the amateur sports world, has returned to the Congress, which was again unable to effect a resolution. The result of this latest episode is that the highly publicized, and greatly anticipated, basketball series between the Russian team and the U.S. team is in serious jeopardy.

There is little reason to burden this record with documented evidence of the confused state of affairs which our talented athletes are forced to face. The large number of rules and regulations with which these men and women are forced to comply serve only to handicap their pursuits, and stifle their development and success. The situation is crystal clear—the amateur sports hierarchy, riddled by divisiveness, is not functioning in the best interests of the athletes. Rather, that hierarchy has become a self-perpetuating, self-aggrandizing system which seriously jeopardizes the ability of the United States to field representative teams in international competition. Training facilities for our amateur athletes have reached the dimensions of a national disgrace. Olympic hurdlers have sometimes been forced to train with only one hurdle at their disposal. The training table for some of our athletes at the Olympic trials, according to Olympian Steve Prefontaine, has been "the corner hot dog stand."

It is time that this body endeavor to correct this problem which the rules of amateur sports in this country cannot even see. I ask unanimous consent that there be printed in the RECORD at this point an article by Mr. Ron Barak from the Southern California Law Review titled "The Government of Amateur Athletics: The NCAA-AAU Dispute," which gives an excellent and accurate picture of the dimensions of this problem.

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

THE GOVERNMENT OF AMATEUR ATHLETICS: THE NCAA–AAU DISPUTE

Jurisdiction over American amateur athletics has long been a subject of controversy.[1] In the last several years the debate has become increasingly heated. Two groups—the Amateur Athletic Union of the United States (AAU) and the National Collegiate Athletic Association (NCAA)—have been particularly involved in the conflict.[2] The main victims of the controversy, however, are the athlete, the coach and the public. The repeated condemnations of and threatened reprisals against non-cooperating athletes[3] have caused national resentment. In addition, America's position as a leading world power in amateur sports is being threatened.[4]

The problem has so far defied solution, although a number of prominent people have attempted its settlement[5] and federal legislation has been threatened.[6] This Note will consider the positions of the various disputants, analyze the relationship of domestic athletics to international competition (a prime factor in the dispute) and offer a possible solution.

I. STRUCTURE OF AMATEUR ATHLETICS

A. International

International federations and committees determine the eligibility of athletes for international competition. For instance, the International Olympic Committee (IOC) controls participation in the Olympic Games,[7] generally considered a pinnacle of athletic achievement.[8] Since domestic athletes must adhere to the international rules, the international bodies can effectively influence the government of domestic amateur competition. Much of the current dispute concerns the degree to which purely domestic activities should respond to these private international influences.[9]

In addition to the IOC, several international federations govern individual sports.[10] Among these are the International Amateur Athletic Federation (IAAF), controlling track and field, and the Federation Internationale de Gymnastique (FIG), with jurisdiction over gymnastics.[11] These federations are the result of private international effort, as with the IOC, and administer independent and autonomous programs. In addition, the IOC has delegated to them the technical supervision of the events on the Olympic program. In order for an athlete to participate in the vast majority of international competitions, he must be in good standing with the international federation in charge of his sport.[12]

B. National

American athletes compete in both domestic and international events. The interwoven affiliation between national and international bodies greatly complicates the government of domestic athletics. To some extent the failure to effectively resolve the AAU–NCAA dispute is due to misunderstandings about the relationships between these international and national organizations.

The IOC rules provide for the formation of national Olympic committees[13] and authorize them to join with the national federations[14] of their respective countries "to organize and control the representatives of their country at the Olympic Games."[15] Only these national Olympic committees, recognized and approved by the IOC, can enter competitors in the Olympic Games.[16] The national federations are members of the national Olympic committee and also hold membership in their various respective international federations. Only one organization per country may hold membership in any one international federation.[17] In many countries there is a separate national member for each international federation.[18] In the United States, however, the AAU acts as the national member for eleven international sports.[19]

Although there had been a national Olympic committee in the United States for some time,[20] the United States Olympic Committee (USOC)[21] was incorporated by act of Congress in 1950[22] "to exercise exclusive jurisdiction . . . over all matters pertaining to the participation of the United States in the Olympic Games and and in the Pan American Games . . ." and "to select and obtain for the United States the most competent amateur representation possible in the competitions and events of the Olympic Games and of the Pan American Games."[23] The USOC membership includes every important American amateur sports association.[24] In accordance with IOC rules, however, the USOC recognizes only one national governing body for each sport and provides that these national federations shall constitute a voting majority of the USOC.[25] The USOC recognizes several national federations, giving the AAU ten votes and each other federation one vote. Presumably this is because the AAU acts as the national federation in ten sports.[26] The balance of the votes are distributed among the non-federation members.[27]

The AAU was established in 1888 as a union of athletic clubs, operating through one central association. This organization became impractical with expansion and in a few years the current structure, a union of district associations, each operating with some degree of autonomy, was adopted. The AAU has a Board of Governors, who decide and enforce the national and, concurrently with the district associations, the local AAU policies.[28] Voting control of the Board is in the district associations, although a few votes are given to "allied bodies," the Armed Forces, and past presidents and past secretaries of the AAU.[29]

The IOC empowers the national federations to act as a liason between the corresponding international federation and its national Olympic Committee. In addition no athlete may compete in the Olympic Games, unless he is "a member of the organization in his own country affiliated to the International Federation recognized by the International Olympic Committee governing his sport,"[30] and thus, the national federations control an athlete's entry in the Olympic Games. A major issue in the present controversy concerns the degree to which national federations should control domestic athletics simply because they have the responsibility of enforcing international regulations.

In the United States, as in most other countries, many organizations maintain amateur athletic programs.[31] Much of the current animosity arises because these organizations feel that they are not adequately represented in the selection of athletes for international competition. Moreover, many athletic associations feel that the national federations' control over domestic athletics far exceeds that necessary for their interna-

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tional responsibilities. These associations further complain that their lack of representation in the national federations' policy decisions is not commensurate with their contribution to amateur athletics.[32]

The NCAA's increased unhappiness with AAU policy and conduct and the NCAA's inability to influence such policies led the NCAA to cancel its affiliation with the AAU in 1960.[33] A special committee was appointed to negotiate a correction of what the NCAA viewed as the AAU's organizational faults.[34] Failing to reach an agreement with the AAU after two years, the NCAA encouraged the formation of new, independent national federations in basketball, baseball, gymnastics, and track and field.[35] These federations invited the AAU to join with them in an attempt to administer a unified program; the AAU, of course, declined.[36] These federations hoped to gain national control of their respective sports and to replace the AAU as the international United States' representative.[37]

Since they compete directly with the AAU in seeking to administer "open" [38] programs, and since they threaten the AAU's status as the national representative for certain sports,[39] it is not surprising that the AAU has strenuously resisted their efforts. These federations in turn strongly resist the AAU's efforts to preserve its dominant position.

The AAU-NCAA dispute is essentially jurisdictional—which of various organizations sponsoring programs in the United States will govern these sports? Due to strength of the private international governing network, the United States Government is not as free to resolve the dispute as it would be in a purely domestic conflict. To the extent that the AAU operates as a representative of the international federations it enjoys some degree of immunity from public control.

The AAU contends that as a national federation it has the right, and the duty, to exercise authority both internationally and domestically.[40] Thus, they hold that an American athlete who violates the AAU rule in effect violates the international rules themselves and thus jeopardizes his international eligibility.[41]

The NCAA contends that the international rules authorize a national federation to enforce rules specifically required by the international federations, but that those rules contain no requirements concerning domestic competition.[42] They argue that an international governing body's attempt to authorize such domestic control would be beyond the power of private associations. They also maintain that the AAU is attempting an "unjustified and illegal monopoly control over domestic competition" [43] and that athletes should be able to compete in domestic contests not approved by the AAU without jeopardizing their international standing.[44]

If Americans wish to continue participating in the international arena, the simplest alternative is to obey the rules of the international federation.[45] So long as they are not unconstitutional or odious, a domestic organization's rules necessary for continued international competition should be relatively immune from attack if we are not to jeopardize our right to participate internationally. It would seem that any domestic regulation not necessary for the enforcement of international rules would be subject to governmental regulation. An exploration of the rules necessary to a national federation's international responsibility will be helpful in determining which domestic regulations may be in excess of that responsibility.

III. THE ROLE OF THE NATIONAL FEDERATIONS

A. Responsibility to the International Olympic Committee

The IOC provides that only nations with recognized national Olympic committees may send athletes to the Olympic Games.[46] In order to gain recognition a majority of the Committee's votes must be held by a minimum of five national federations who hold membership in international federations.[47] Only one such federation may be recognized in each sport.[48] National federations select the nation's entries and pass them on to the national Olympic committee for its approval.[49] Finally, in order "to participate in the Olympic Games, a competitor must . . . be a member of the . . . [national federation] governing his sport." [50] In short, the IOC has made the national federations agents to enforce its rules to the extent that the national federations, including the AAU, can prevent an athlete's participation in the Olympic Games.[51] Yet, in fulfilling its responsibility of certifying athletes for the Olympic Games, the national federation has wide latitude in determining the selection criteria. Moreover, the IOC declaration that only one national federation can act as its agent in each sport,[52] states nothing about the number of national federations that may regulate domestic athletics.

B. Responsibility to international federations

Just as the IOC has jurisdiction over only the Olympic Games, the IAAF claims jurisdiction over only "international meeting" [53] and FIG limits its realm to "FIG's contests." [54] The IAAF requires that the eligibility of an athlete who wishes to participate in these international meetings be certified by the national federation in his country.[55] Further, in order to be eligible for international certification, the athlete must be eligible for competition in events governed by his national federation.[56] As mentioned above, only one national governing body per country qualifies for membership in any international federation. The AAU is the federation recognized by the IAAF and by FIG.

The IAAF and FIG thus follow a pattern similar to the IOC. They provide that member national federations shall serve as their agents in enforcing its rules. Accordingly, the AAU has the power to prevent an American athlete from competing in an IAAF "international meeting" or a "FIG contest." As with the IOC "details" are left in large measure to the national federations.

C. Domestic regulation

As noted above, the IOC and the international federations, allow the national federations leeway in applying the general policies of the international federation to the enforcement of the national federation's domestic policies. We shall explore some of the national federations' regulations, specifically the AAU's, to determine if the regulations are commensurate with its international responsibility.

The AAU seeks to impose uniform rules for the sports within its "jurisdiction." [57] It claims jurisdiction over thirteen sports [58] and jurisdiction is reserved over "any matter or matters where in [the AAU's] opinion, the best interests of the [AAU] will be served thereby." [59]

The AAU requires that its approval ("sanction") be sought for events not exclusively limited to members of a single AAU-affiliated club or AAU district association.[60]

"As a condition to the granting of an A.A.U. sanction, the organization applying must confirm that the A.A.U. is the sole United States governing body in the sport for which sanction is applied, and must further agree that as a further condition to the granting of such sanction, such organization will neither seek nor accept sanction from any other group or body claiming jurisdiction in such sport, nor permit athletes who are not eligible to compete under A.A.U. rules to compete in such sanctioned event." [61]

The promoters of the event must also agree that no athlete shall be allowed to compete or participate unless he is certified by the AAU [62] and the AAU also requires payment of a sanctioning fee.[63]

These sanctioning requirements lead to the much-discussed distinction between "open" and "closed" competition. A sanction is required for "open" meets but not for "closed" ones. If only members of a single AAU affiliate may enter, the competition is termed "closed"; otherwise it is "open." For instance, suppose national organization "A," an "allied member" of the AAU, is composed of several member clubs, "A_1", "A_2", "A_3". Competition between "A_1" and "A_2" would be "closed"; an AAU "sanction" would be unnecessary. National competition between all of "A's" member clubs would also be "closed." Even though the NCAA is no longer an "allied member" of the AAU, the AAU treats it as such and classifies competition between its member institutions as "closed."

The AAU in effect says that all open competition—whether or not AAU promoted or conducted—must be sanctioned and that only athletes in good standing with the AAU may participate in such competition. The AAU lists various ways an athlete may disqualify himself, and reserves the right to determine the question of an athlete's eligibility.[64] For instance, any participant in an non-sanctioned open competition may be barred from future AAU sponsored or sanctioned competition.[65]

The AAU justifies its sanctioning requirements as necessary to assure the maintenance of amateurism; to facilitate keeping of records; and to inform athletes if it is "safe" to compete in a given meet so that if any national or international rules are violated, the responsibility will lie with the AAU and not the individual athlete. But if these values are served without requiring a "sanction" for a competition between UCLA and USC, as members of the NCAA, or between the Beverly Hills YMCA and the Los Angeles YMCA, it is difficult to see what added dangers exist that require the "sanction" of a competition between the Los Angeles YMCA and USC.

IV. VALIDITY OF THE NATIONAL FEDERATIONS' (AAU'S) DOMESTIC REGULATION

The validity of the AAU's regulation depends on the values the AAU, or any national federation, serves as a private national association. What are the values an amateur athletic association serves; do the AAU's regulations serve these values; might a different scheme of amateur athletic administration better serve these values?

As discussed above, the AAU's regulations are partly required by the international governing bodies. Government attempts to hinder these regulations would probably cause undesirable international repercussions.[66]

The international good will which stems from friendly international athletic competition, the maintenance of uniform standards for amateurism and international eligibility, and the recognition of world records warrant the non-interference. The prospect of national governments, influenced by conflicting political and commercial interests serving these functions does not provide an attractive alternative.[67] To the extent, therefore, that these international governing bodies appoint national federations to administer necessary regulations, these agents' regulations should be accepted as legitimate. Moreover, since there are relatively few internationally required regulations, much could be accomplished without interfering with the international rules and thus we shall not attempt to examine their validity or autonomy.[68]

The AAU does promulgate regulations not specifically required by international bodies. When not acting as agent of various international associations, the AAU would seem more readily within the reach of government supervision. The values served by national athletic associations are distinct from, though related to, the values fostered by international rules enforcement. The international

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rules insure a suitable international arena in which United States athletes can compete. However, the national association's activities and regulations serve important national values, among them success in the international arena, and should be evaluated in terms of how well they further these values.

The associations also further national values by promoting the success of American athletes in international competition. Local competition provides healthy activity for those not necessarily interested in competing internationally. By involving many people in athletic competition, the associations promote physical fitness. Athletic competition may also be coupled with social activities.[69] Finally, domestic regulation maintains uniform standards of amateurism and facilitates recognition of individual records.

The active domestic programs provide potential international competitors with interest, encouragement and experience. Participation of American teams in international competition excites national pride and enhances American prestige.[70]

National athletic associations have, at least in the United States, a history of serving many of these values. Following the Civil War the condition of amateur sports cried for regulation.[71] In 1888 interested sportsmen formed the AAU to remedy a disgraceful situation that was due largely to the activities of dishonest promoters.[72]

". . . [A]mateur athletics in this country were in a chaotic condition. Track athletes competed under assumed names for money prizes; professionals were brought from different sections of the country and competed one day for prizes and the next for money.[73]

In 1888 there were no other associations with the interest and power to actively oppose this corruption, and largely as a result of the AAU's efforts, the corruption that then flourished is seldom seen today. However, since the 1880's other associations have come to play a major role in the development of amateur athletics.[74] These groups conduct successful programs and, like the AAU, maintain "clean" sports programs. The AAU was once the only significant amateur athletic association in the country; it is now one of many. Nevertheless, the AAU continues to claim domestic control of amateur athletics. Many of the other associations challenge the appropriateness of the AAU acting as the sole domestic governing body [75] and even object to its acting as the sole international representative, arguing that their contributions to America's athletic efforts should give them some share in the international representation.[76]

As suggested above, the United States should have no objection to an international governing body's agent national federation administering international regulations in this country so long as the international regulations do not conflict with domestic law. This does not, however, help determine whether, and to what degree, the national federation should have discretion in setting domestic policy. It appears also that, regardless of the merits of the dispute, the AAU is no longer representative of the domestic effort in amateur athletics. The continued fight for control can only further damage the nation's sports programs, and the values they promote. Moreover, disputing associations have not demonstrated that they can solve the problems on their own.

Government solution, whether legislative or judicial, need not challenge the rule-making authority of the international governing bodies; it is not necessary for the government to exert any continuing control over amateur athletics.[77] Whether the United States should go one step further and attempt to expressly designate whom the international governing bodies must accept as their national agent, or simply do so impliedly through nonrecognition of a national federation,[78] is not entirely clear. These international matters are sensitive and probably should be handled more delicately than an attempt to solve disputes in domestic matters in which the international governing bodies have no particular interest.[79]

V. SOLUTION

It has become impractical for the AAU alone to act as the national governing body for domestic amateur athletics. Even if a restructuring of the AAU could be accomplished to give other organizations more representation, it is improbable that this alternative would be an effective solution. The long history of the dispute makes other associations' acceptance of integration into the AAU framework highly unlikely. Realization of the values served by national athletic competition would be furthered by the formation of a new national organization that would establish a unified program and assure cooperation among the various independent athletic associations.[80] The simplest alternative would be to declare that the AAU can no longer act as the sole domestic governing body, but may operate merely as one of several private athletic associations in the United States. These associations would then comprise a new national governing body with each member-association sharing in the control of the new organization.

There is, of course, a problem of whether the international agency responsibility should be divorced from domestic control, *i.e.*, whether the AAU—no longer the national governing body—should continue as the agency responsible for international representation. Aside from the international governing body's regulations (which may leave little room for debate),[81] separate bodies would be inefficient. Possibly that accounts for international federations' restricting membership to the effective domestic governing body.

Separate international-national groups would complicate communication of changes in international rules to domestic athletic associations. Moreover, it is very difficult to draw the line between "domestic" and "international." [82] Two bodies might spend a great deal of time disputing the location of that boundary.

Thus the maintenance of a strong national sports program would be aided by the formation of a unified organization with both domestic control and international regulatory powers.[83] It is desirable, however, to obtain the efficiencies of this unification without alienating the international federations.

A. Voluntary agreement by the parties involved

Nearly everyone believes that agreement by the disputants would be the most desirable means of achieving change; there is, however, little chance of such agreement. Aside from the history of the dispute [84] and the failure of settlement efforts,[85] the current leaders in the disputing organizations are probably too personally involved to be able to negotiate objectively and with the best interests of the country in mind.[86] Moreover, several smaller athletic associations which make significant contributions to American athletic programs, would possibly not receive an effective voice in any arrangement devised by the AAU and the NCAA.

B. Arbitration

Arbitration has already been attempted.[87] Since arbitration is generally binding only if the parties agree that it shall be,[88] there is little difference between this approach and voluntary agreement. The Chairman of the Sports Arbitration Board has admitted that the parties have not agreed to accept his Board's authority.[89] Absent some form of compulsory arbitration, the failure of the Sports Arbitration Board to reach an acceptable solution during the past two and one-half years [90] indicates that arbitration probably will not provide a solution.

C. Judicial intervention

A judicial solution may be possible.[91] The AAU's opponents assert that its policies conflict with the antitrust laws.[92] The NCAA cites *Washington State Bowling Proprietors Association v. Pacific Lanes, Inc.*[93] and *People v. Santa Clara Valley Bowling Proprietors Association*,[94] to argue:

"Recent court decisions affecting associations purporting to govern sporting events have held that a boycott is a per se violation of Section I of the Sherman Act to the extent that the rules of such an association are designed to have, or do have, the effect of precluding parties from dealing with others." [95]

In *Pacific Lanes* the owner of a bowling establishment claimed that other lanes through their private trade association had agreed to sanction bowling tournaments only if the tournaments were restricted to persons who did all their league and tournament bowling in member establishments.[96] Citing *Klor's, Inc. v. Broadway-Hale Stores, Inc.*,[97] the court stated that group boycotts are per se violations of the Sherman Act. The court rejected the defendants' argument that *Klor's* applied only to commercial boycotts.[98]

In *Santa Clara* [99] California brought an action under the Cartwright Act [100] against several bowling proprietors' associations. The charge was essentially the same as that in *Pacific Lanes:* eligibility rules amounted to group boycotting in restraint of trade. The court enjoined the defendants from requiring, as a condition of eligibility, that a bowler restrict any or all of his league play to member establishments.[101]

A study of private universities and colleges suggests another approach to judicial intervention.[102] The author argued that harmful actions by private persons and associations are generally limited by extra-legal societal controls; only where these controls fail should courts intervene.[103] Economic activities are ordinarily regulated by the competitive pressure of the market; associational abuses are generally curbed by association elections; family relations are normally restricted by social mores and customs. When a student selects a university, however, he must do so on an all-or-nothing basis; the school's potential to exercise coercion is substantially unrestricted.[104] The same conclusion may apply to the AAU because of its control over international participation by U.S. groups and individuals. Arguably the situation is even worse—a student initially has a choice of which institution to attend, but an athlete has no choice as to what national federation will govern his sport.

St. Augustine High School v. Louisiana High School Athletic Association [105] shows some judicial willingness to intervene in school-related athletic problems. A Negro high school sought membership in a high school athletic association, composed primarily of public schools. The court, finding the association an agency of the state and thus subject to the fourteenth amendment, ruled that if the high school met all qualifications for membership, the association's failure to grant the necessary approval violated the equal protection and due process clauses of the Constitution.[106]

Assuming that the AAU's conduct is challengeable on antitrust, common law, or constitutional grounds, a judicial remedy may still prove insufficient to solve the problem. In *Pacific Lanes* the plaintiff suffered damages to his business. Perhaps an athletic association could demonstrate similar damages and obtain a money judgment. Perhaps injunctive relief similar to that awarded in *Santa Clara* would be possible. Such awards could eliminate the monopolistic eligibility rules presently asserted by the AAU. Admission into the AAU so as to qualify for international competition might be compelled, as in *St. Augustine*. But these decisions will

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not solve the basic problem of reallocating governing authority among the many organizations now contributing to the athletic programs of this country. While the cases just examined indicate that courts will oppose improper conduct exercised by athletic associations, there is no evidence that they would hold the present organizational structures to be themselves illegal and remediable.[107]

D. Legislation

Perhaps the simplest and most effective approach is legislation. Members of Congress have already indicated a willingness to invoke the legislative process if necessary,[108] and legislation has been proposed in the area of track and field. Senate Joint Resolution 67 provides for a federal commissioner with jurisdiction over track and field in the United States including power to sanction open meets and certify athletes for participation in international competition. The Resolution provides that the commissioner would be the sole United States representative to the IAAF. This approach is objectionable because the permanent government intervention in track and field would very probably be unacceptable to the international governing bodies.[109]

Senate Joint Resolution 68 calls for the creation of a compulsory arbitration board and makes board decisions enforceable by the Attorney General in the federal district court. This approach involves selecting a board to do indirectly what Congress is equally capable of doing on its own—i.e. drafting a "charter" for amateur athletics. The present arbitration board's inability to reach a solution suggests that there may be little added expertise or efficiency by Congress deferring to a smaller body. Another difficulty of Senate Resolution 68 is that it makes no provision for future disagreements; the board dissolves after a short period of time.

Senate Joint Resolution 59 is more promising. It creates a new private governing body, with equitable representation for all associations. The resolution would treat the AAU as one of many associations in the United States. This new organization would serve domestically and, hopefully, internationally.[110] This raises the delicate question of the extent to which legislation should designate the United States' international representatives. If the international federations adhere closely to their rules [111] it would only be necessary to designate a new national governing body; if their rules are not entirely determinative, the desired result could be obtained by adding that the new organization alone would be permitted to accept the responsibility delegated by the international federation.

It is only speculation as to how narrowly the international federations will construe their rules and how strenuously they might react to an attempt to dictate who would be their agent. Silence as to international designation might mean the legislation would be less likely to arouse both domestic and international resistance. But on the other hand, if the international federations did not feel compelled to follow their rules and recognize the new organization, subsequent legislation might be necessary. International designation in the initial legislation would eliminate the unpleasant possibility of struggling for legislation twice. At the same time, however, it might be going further than necessary—and beyond what some of the international federations might be willing to accept.

Legislation stipulating that only the newly established national governing body could act internationally seems the better alternative.[112] If in fact the international federations rely on the "plain meaning" of their rules, there would be little reason for them to take offense at action consistent with their own espoused policy. If, however, they do not closely follow those rules, such legislation would eventually have to be attempted. At least direct application of the latter course of action would avoid the possible necessity of two efforts.

Although the present investigation by the Senate Commerce Committee has primarily concerned track and field, similar difficulties prevail in other sports as well.[113] Congress should settle the controversy along the lines of Senate Joint Resolution 59, expanding its coverage to include other amateur sports in the United States.

FOOTNOTES

[1] The proud and historic tradition of amateur athletics in the United States has been profoundly shaken by a bitter conflict. . . . Our finest young athletes fear to take the chance to compete for their national honor. Threats of sanction or retaliation dog their footsteps. Their academic standing may be imperiled and their future careers jeopardized.

At stake, ultimately, is our continued ability to demonstrate in the Olympic Games that fitness and zest for voluntary competition are the hallmarks of a free and democratic society. . . .

Remarks of Senator Warren G. Magnuson, *Hearings Before the Senate Committee on Commerce*, 89th Cong., 1st Sess., ser. 89–40, at 1 (August 16, 1965) [hereinafter cited as *1965 Hearings*].

[2] *See, e.g.*, A. FLATH, A HISTORY OF RELATIONS BETWEEN THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION AND THE AMATEUR ATHLETIC UNION OF THE UNITED STATES (1905–63) (1964).

[3] I received a letter from the AAU where it listed the names of the meets in which I was safe to compete. They were listed as being sanctioned by the national body, the Amateur Athletic Union. I was told in this correspondence if I competed in any meets not sanctioned by the AAU . . . that . . . I would be subject to suspension from all future competition internationally.

Statement of Harold V. Connolly, *1965 Hearings*, at 96.

[My] coach was in touch with our athletic director and the athletic director said that Walter Byers [NCAA Executive Director] had phoned him and told him if I was to compete in the AAU championships, that St. John's would be penalized. . . .

Statement of Tom Farrell, *id.*, at 62; *see also* statement of Gerry Lindgren, *id.*, at 27.

[4] For example, in 1965 the United States lost its first dual track meet with the Russian team since the series began in 1958. Many experts blamed the loss on the NCAA-AAU dispute over the sanctions of the qualifying meet which resulted in an NCAA ban on the meet. *See* S. Res. 147, 89th Cong., 1st Sess., 111 CONG. REC. 23529 (1965).

[5] Among these are John K. Kennedy, Hubert H. Humphrey, and Douglas MacArthur.

[6] We are prepared to go even farther. Even to considering legislation if necessary." Magnuson, *supra* note 1. The controversy provoked hearings before the Senate Commerce Committee in August 1965 and again in August 1967.

[7] The direction of the Olympic Movement and the control of the Olympic Games and the Olympic Winter Games are vested in the International Olympic Committee. . . .

INTERNATIONAL OLYMPIC COMMITTEE, THE OLYMPIC GAMES, art. 4, 11 (1967) [hereinafter cited as IOC HANDBOOK]. The articles further provide:

The International Olympic Committee is the final arbiter on all questions concerning the Olympic Games and the Olympic Movement.

Id., art. 23, at 17.

[8] The importance of it can be illustrated by the fact . . . that the Japanese spent some $3 billion to stage the games in Tokyo [in 1964]. . . . They were so proud of having the Olympic games that they practically rebuilt the city of Tokyo.

Statement of Avery Brundage, *1965 Hearings*, at 473.

[9] The IOC is a private organization. It originated at a World Congress of sports associations held in 1894, *Id.* at 51–53.

[10] *Id.*, at 84. *See also* INTERNATIONAL AMATEUR ATHLETIC FEDERATION, OFFICIAL HANDBOOK 1967/1968, rule 2, at 37 (1967) [hereinafter cited as IAAF HANDBOOK]: BY-LAWS OF THE FEDERATION INTERNATIONALE DE GYMNASTIQUE, art. 1, at 1 (transl. effective Oct. 5, 1958 [hereinafter cited as FIG HANDBOOK].

[11] These two international federations are singled out as illustrations because the controversy has been particularly bitter and publicized in these two sports.

[12] *See, e.g.*, IOC HANDBOOK, art. 23, at 17; IAAF HANDBOOK, rule 52, at 53; FIG HANDBOOK, art. 30, at 8.

[13] IOC HANDBOOK, art. 24, at 18.

[14] These national federations generally have the same relationship to the national Olympic committees as the international federations have to the IOC. Further, in order that contestants from a country can participate in the Olympic Games, a national Olympic committee must be composed of at least five national federations. These federations in turn must be recognized as active members of the international federations governing their sports on the Olympic program. *Id.*

[15] The same rule also states that the national federations and the national Olympic committees "shall cooperate . . . in guarding and enforcing amateur rules." IOC HANDBOOK, art. 24, at 18.

[16] *Id.*

[17] Only one member for each country can be affiliated." IAAF HANDBOOK, Rule 2, at 37; "One single national Federation is recognized in each nation. . ." FIG HANDBOOK, art. 2, at 1.

[18] It is permissible, however, and there are countries in which the same body acts as a national federation in several sports.

[19] The Amateur Athletic Union of the United States is the largest and strongest amateur sport governing body in the world. No other amateur sport governing body controls so many different sports.

The Amateur Athletic Union holds membership in the following international amateur Federations, and is the only recognized governing body of the United States for the sports these Federations claim jurisdiction over for International contests: International Amateur Swimming Federation, International Amateur Athletic Federation, International Amateur Boxing Federation, International Amateur Wrestling Federation, International Amateur Gymnastics Federation [Federation Internationale de Gymnastique], International Bobsleigh and Tobaggan Federation, International Fieldball and Handball Federation, International Judo Federation, International Amateur Luge Federation.

OFFICIAL HANDBOOK OF THE AMATEUR ATHLETIC UNION OF THE UNITED STATES 5 (1966) [hereinafter cited as AAU HANDBOOK].

[20] The national committee in the United States was organized in 1900 "and it was one which was somewhat self-appointed." W. Schroeder, The Pattern of Amateur Track & Field in the United States of America (undated mimeo material on file at the University of Southern California Law Library).

[21] Prior to 1964 it was known as the United States Olympic Association.

[22] Pub. L. No. 81–805, § 1 (Sept. 21, 1950).

[23] This language is incorporated into the CONSTITUTION, BY-LAWS AND GENERAL RULES OF THE UNITED STATES OLYMPIC COMMITTEE, art. II, § 1(3)-(4), at 3 (1967) [hereinafter cited as USOC HANDBOOK].

[24] *Id.*, art. III, at 4.

[25] IOC HANDBOOK, art. 24, at 19. *See also* USOC HANDBOOK, art. III, at 4.

[26] *See* USOC HANDBOOK, art. III, at 4.

[27] *Id.* In addition, new members may be admitted following a two-thirds vote at a regularly called meeting of the USOC. *Id.*, art. V, at 7.

[28] AAU HANDBOOK, art. IX, at 20.

[29] *Id.*, art. VII, at 17–19. This article provides that a district association with a membership of eight clubs receives six votes on the Board. The representation increases with membership to a maximum of thirty-six votes for a district association of 352 clubs. Article XVII places no minimum on the number of athletes that constitute a "club." *Id.* at 24. Thus a district association representing only a small number of athletes can receive six votes on the Board of Governors. The NCAA, as a one time "Allied Body," received only one vote, in spite of the fact that it claims to represent over 24,000 athletes in intercollegiate track and field alone. *1965 Hearings*, at 371. The fifty-five district associations of the AAU cast 772 votes compared to the one vote for the NCAA. *See* AAU HANDBOOK, art. VII, at 17.

[30] IOC HANDBOOK, rule 34, at 24–25.

[31] The NCAA and the National Association of Intercollegiate Athletics (NAIA) provide local and national athletic programs for the member colleges. The National Federation of Student High School Athletic Associations (NFSHSAA) and the National Junior College Athletic Association (NJCAA) maintain similar programs for their members. Several religious athletic associations also conduct amateur athletic programs. The Young Men's Christian Association (YMCA), the Catholic Youth Organization (CYO) and the Jewish Welfare Board (JWB) are examples. The JWB, in addition to its various domestic activities, sends U.S. athletes abroad to participate every four years in the World Maccabiah Games. The Armed Forces have active athletic programs in several sports and consistently place many athletes on United States teams. The National Recreation Association (NRA) represents city and county recreation departments across the country and is just beginning to tap its potential.

In addition to these activities, the United States, for the first time, in 1965 entered a team in the World University Games sponsored by the International University Sports Federation (FISU), FISU claims the approval of the IOC for its activities and has appointed the United States Collegiate Sports Council (USCSC) as its national representative. USCSC is composed of various national sports associations, representing perhaps the first significant coalition of such athletic organizations. Its members are the NCAA, NAIA, NJCAA, United States National Student Association (USNSA), and American Association for Health, Physical Education, and Recreation (AAHPER).

[32] The collegiate coaches of the United States are working with or have worked with 99 percent of the top flight athletes in the United States.

[Y]et we are denied the privilege and responsibility of sharing in the formulation of policy which directly affects our program.

Statement contained in report submitted by Walter Byers, Executive Director, NCAA, 1965 *Hearings*, at 378, 383.

[33] NCAA, Report of the NCAA Council (Jan. 11, 1965) (on file at the University of Southern California Law Library). For a list of NCAA grievances, *see* report submitted by Byers, *supra* note 32, at 381–82.

[34] *See id.* at 5.

[35] *Id.* at 6.

[36] *See id.*, at 5.

[37] NCAA, ORGANIZATIONAL MEETING OF THE UNITED STATES FEDERATIONS IN THE SPORTS OF BASKETBALL, GYMNASTICS, AND TRACK AND FIELD 5 (March 4–6, 1962).

[38] Basically, "open" meets are those in which athletes from more than one classification, as recognized by the AAU, compete. *See* note 60 *infra* and text following note 63 *infra*.

[39] For instance, at a November 1967 executive committee meeting of FIG the committee reportedly decided to recognize the NCAA-backed United States Gymnastics Federation (USGF) as the national representative instead of the previously recognized AAU. The decision is tentative; it would have to be approved by the FIG Congress, which meets in July, 1968. *See generally* Bare, THE MODERN GYMNAST, Nov. 1967, at 10. According to FIG rules such a change would also have to be concurred in by the United States Government. *See* note 66 *infra*.

[40] "Internationally" means regulation required by the international federations; "domestically" means regulations not specifically required by the international rules. The AAU claims that much, if not all, of the regulations it imposes are internationally required:

Resolved, That the IAAF in congress assembled in the city of Belgrade, Yugoslavia, on the 17th day of September 1962, hereby records its full and unanimous confidence and support of the Amateur Athletic Union of the United States as the recognized governing body of amateur athletics in the United States, and the IAAF hereby calls upon its members throughout the world for diligence in the strict enforcement of the rules of the IAAF in regard to the invitations for the exchange of athletes with the United States, to make sure that U.S. athletes are certified by the AAU as AAU members and as amateurs; furthermore, that athletes of no member of the IAAF be permitted to compete in the United States in open meets except those conducted or sanctioned by the Amateur Athletic Union of the United States. The IAAF also hereby reaffirms its constitutional and traditional concern that amateur athletes be controlled by amateurs for the benefit of amateur athletes. . . .

Senator PEARSON. I take it this resolution has reference only to international competition?

Mr. HULL [Executive Director, AAU]. It refers to open competition in the United States as well. (explanation added)

Senator PEARSON. Domestically, too?

Mr. HULL. Yes, sir. This is a point that was made, and one of the things they state in their resolution was that the members of the IAAF could compete in open meets in the United States only in those conducted or sanctioned by the Amateur Athletic Union. . . .

Senator PEARSON. What was the reason for an international organization passing a resolution covering domestic open track meets?

Mr. Hull. They have rules which are very necessary if you want to participate internationally. I think they were trying, of course, obviously, to protect and make it clear to the world that they supported the rules of the Amateur Athletic Union, and intended to continue that support. . . .

Senator PEARSON. When you got this resolution, and I am not so naive that I don't know probably who drafted it and who proposed it, what was the effect of it? To solidify your position with the international body? Or to solve the domestic situation as to open track meets in the Jnited States? . . .

Mr. HULL. To us it meant our rules were completely supportive of the IAAF and their administration of them was supported, and the question of open competition in the United States, in the minds of the IAAF members was an activity that belonged solely to the recognized governing body.

Senator PEARSON. What is the basis for that? Where are the rules that decree that to be the policy and the law, in fact, as to domestic track meets?

Mr. HULL. I don't think you will find any rule that specifically says exactly what will be done in each country. They do say of course there can be only one single governing body.

Senator PEARSON. In international competition, to certify for international competition?

Mr. HULL. It doesn't say that, Senator Pearson. It says there will be one single governing body in each nation.

Senator PEARSON. I understand that. What is the authority for the sole jurisdiction for sanctioning open track meets that the AAU, as I understand it, claims it possesses?

Mr. HULL. In my best judgment this is a reasonable application of the governing authority. When they say there will be a single governing body, they don't say that body will govern only internationally. They are elected as the representative of that country for governing that sport.

Senator PEARSON. That is your interpretation, but where is your authority?

Mr. HULL. . . .

They say a basic policy, a single governing body, and it follows that that governing body will apply reasonable jurisdiction, and this is what we think we are applying. The open competition idea to show you what I think is the reasonableness of it . . . the IAAF in stating their own authority says that they alone—and they use the world "alone"—can sanction international competition. Then it would follow that if we are to have a single governing body and the world body alone can sanction international competition, then surely the international [should read nation] body alone can sanction [national] competition, and this is the pattern throughout the world. This is nothing peculiar to the United States. . . .

Senator PEARSON. That makes as much sense as some of this dispute.

1965 Hearings, at 339–43.

The resolution gives IAAF support to the AAU as the recognized governing body of amateur athletics. In addition, the IAAF asks its members throughout the world to enforce IAAF rules regarding exchange of athletes with the United States to ensure that U.S. athletes are AAU certified. This means that the AA must certify to the IAAF which U.S. athletes are eligible to participate in international competition and that all other members of the IAAF must confirm such certification before allowing their athletes to compete against an American athlete. The resolution might be interpreted to mean that athletes of IAAF members cannot complete in an open meet in the United States unless conducted or sanctioned by the AAU. Thus, since the AAU is a member of the IAAF, athletes holding membership in the AAU cannot compete in open domestic meets in the United States unless conducted or sanctioned by the AAU.

On the other hand, the resolution may refer only to international competition over which the IAAF assumes jurisdiction. *See generally* note 53 *infra* and accompanying text. Under this latter view, only athletes of other IAAF members are included. The IAAF does not assert jurisdiction over meets open only to Americans. *See* note 53 *infra*. Furthermore, even accepting the AAU's position, the resolution applies only to U.S. athletes holding membership in the AAU; all other U.S. athletes may still be free to compete in unsanctioned open meets.

In the first two exchanges in the hearing excerpted, quoted Col. Hull apparently interprets the resolution as stating that the IAAF requires domestic athletes to submit to AAU control. However, in the next two exchanges, Col. Hull states that it is AAU rules, not IAAF rules that give the AAU dominion over the domestic scene; the IAAF merely supports the AAU rules.

Col. Hull also insists that there can be only one single governing body in each nation. But IAAF rules merely state that "[o]nly one

member for each country can be affiliated," note 17 *supra*, and that the "national Governing body . . . shall be eligible for membership. . . ." IAAF HANDBOOK, rule 8, at 43. As Senator Pearson pointed out, this can be interpreted to mean that only one national governing body in the United States can be selected by the IAAF as its agent in international matters concerning the United States; and that the IAAF chooses from existing national governing bodies in a country, but has no say as to the number or domestic role of those bodies. *Cf.* note 66 *infra*.

[41] *See, e.g.*, Hull, *As U.S. Governing Body, The AAU Must Play by International Rules*, AMATEUR ATHLETE, Feb. 8, 1965, at 41.

[42] For example, the IAAF makes ineligible for IAAF competition any athlete who, since reaching the age of 16, competes in any sport for any pecuniary reward. IAAF HANDBOOK, rule 53 at 53. Enforcing this regulation, the AAU stipulates that an athlete ceases to be eligible if he competes for money. AAU HANDBOOK, rule VI(1)(b), at 73, but goes beyond IAAF requirements in applying this mandate to athletes under the age of 16 as well. Furthermore, little support is to be found for the AAU sanctioning requirements (note 61 *infra* and accompanying text); no such homage is required by international federation regulations. The NCAA maintains that "In asserting that it is required by the IAAF to 'sanction' track meets which are . . . [domestic], the AAU asserts a power which is not required by its role as a 'National Governing Body' within the IAAF family." NCAA, Position of the National Collegiate Athletic Association Before the Sports Arbitration Board, May 1–2, 1967, at 3.

[43] *See id.* at 1.

[44] The NCAA argues that in so competing an athlete does not violate any IAAF rule. In addition it maintains that "nothing in IAAF Rule 10 or 53 requires or authorizes a national governing body to regulate its own nationals because of their actions within their own country." *Id.* at 4.

But cf., IAAF HANDBOOK, rule 54, at 57: "[A]ny person who is, and for so long as he remains, ineligible to compete in competitions under the jurisdiction of his national governing body is ineligible to compete under the rules of the International Amateur Athletic Federation." Rule 54 is very much like the IAAF Resolution set forth and discussed at note 46 *supra*. It lends support to its member-national governing bodies as the domestic authorities within their countries. This rule, however, does not require the governing bodies to rule ineligible athletes who participate in unsanctioned events. Such conditions are established by the national bodies themselves and are subject to government regulation. *See* note 66 *infra*.

[45] It is difficult to predict the results of American rejection of an international rule. The United States athletes "need" the international governing bodies' approval for access to the top-flight international competition. Yet, on the other hand, the international governing bodies "need" American athletes to maintain the high caliber of competitions. Furthermore, the sports-minded American public provides a large portion of the revenue the international governing bodies derive from these competitions.

It has been argued that the IAAF will not accept such an organization. Don't you believe it. If this was the only official body it would have to embrace it. The greatest athletic nation in the world hardly could be disbarred on a mere technicality as long as the IAAF now embraces such government-controlled federations as those from the Iron Curtain countries.

Los Angeles Times, Feb. 5, 1968, pt. 3, at 2, cols. 1–2.

The Soviet Union is the prime example amongst a host of nations around the world whose governments not only run their amateur athletic programs but also subsidize the competitors to the point of professionalizing them.

Los Angeles Times, Jan. 22, 1968, pt. 3, at 2, cols. 1–2.

[46] IOC HANDBOOK, art. 24, at 18.

[47] *Id.* at 19.

[48] *Id.*

[49] *Id.*, art 34, at 24–25. Within the United States this may be simply a matter of form, since IOC and USOC rules call for the AAU to hold a majority position on the USOC.

[50] *Id.*

[51] This delegation of authority is only with respect to the Olympic Games; the IOC has no authority as to any other international program.

[52] IOC HANDBOOK, art. 23, at 17.

[53] 1. An international athletic meeting is defined as follows:

(a) A meeting arranged between two or more members of the Federation; or

(b) A meeting organized by the Federation or a member of the Federation or by a club affiliated to and having the sanction of a member, provided other members of the Federation or their clubs take part in the meeting.

2. Neither a national championship open to all amateur athletes, nor a competition in which a touring team of athletes take part as individuals, shall be considered an international meeting.

3. At all international meetings the rules and regulations of the Federation shall apply.

4. All international meetings must be sanctioned by the I.A.A.F. or by a member of the Federation. . . .

5. No athlete or club may take part in an athletic meeting in a foreign country without the written approval of his governing body, and no member of the Federation shall allow any foreign athlete to enter any competition without such permit certifying that he is an amateur and permitted to compete in the country concerned.

An invitation to an athlete to compete in a meeting in a country other than his own shall not be extended directly or indirectly by an individual, a club, college, university or other athletic organization, but only by the governing body of the inviting country through the governing body of the country such athlete represents.

All negotiations for the participation of an athlete in contests in another country shall be carried on by the governing body of the countries concerned. . . .

6. Any athlete competing in any foreign country (other than in international meetings as above defined) shall, in respect to that competition, be subject to the athletic laws of that country.

IAAF HANDBOOK, art. 10, at 47–48.

[54] Q. If [the United States] sends a team to the World [Gymnastics] Championships . . .

A. That is another question.

Q. [The University Games] is an international competition, just like the World Championships are?

A. Oh no, no, no. It is quite different. This is a FISU competition.

Q. So when [FIG's] regulations say ["contest"] they really mean a ["contest"] of FIG?

A. Yes. FIG.

Q. Not any international ["contest"]?

A. No. That does not concern our statutes.

Interview with Arthur Gander, FIG President, in Tokyo, Japan, September, 1967 (Tape recording on file in the University of Southern California Law Library).

[55] *See, e.g.*, IAAF HANDBOOK, art. 55, at 57.

[56] *Id.*, at art. 54 note 44 *supra*. "The FIG's contests, including those of the Olympic Games, are open only to gymnasts of the affiliated federations." FIG HANDBOOK, art 30, at 9.

[57] *See* AAU HANDBOOK, art II(6); art. IX(13) (1966).

[58] *Id.* at art. III.

[59] *Id.*, art. IX(3)(a), at 23.

[60] All games, meets, benefits, exhibitions or entertainments of any kind where athletes compete or exhibit or demonstrate or display talents or techniques must be sanctioned, excepting those open only to members of a [single] club, organization or group that is a member of an Association of this Union or by an Allied Member.

Id., rule I(1), at 52.

[61] *Id.*, rule I(2)(b), at 52.

[62] *Id.*, rule II, at 58.

[63] *Id.*, art. X(4), at 23; rule I(4), at 55.

[64] *Id.*, art. IX, at 20; art. X(1), (3) at 22; By-Law V, at 40; rules VI, at 73; and VII, at 77. The AAU will "consider and determine questions concerning the amateur status of any athlete . . . [and] if [it] shall find that the athlete has violated the rules of amateurism as set forth in the Constitution, By-Laws and/or Rules of the Union, it shall impose such punishment or penalty as may be provided therein, and in cases where no punishment or penalty is set forth, such punishment or penalty as it may deem just." *Id.*, art. X(1)(1), at 22.

[65] *Id.*, rule VII(3), at 77. Other grounds for suspension include knowingly competing against an athlete ineligible under AAU Rules; entering an event and failing to compete without satisfactory excuse; refusing to appear or testify before an AAU Registration Committee; using drugs; committing any number of acts that render one a professional rather than an amateur.

[66] The United States government could, of course, refuse to recognize the AAU as a national governing body. The international bodies by their own rules could not make the AAU their agent.

[T]he conditions of admission being . . . [that the applicant] must be recognized by the highest national authority on sports, as being the Federation governing gymnastics in that country.

FIG HANDBOOK, art. 25 at 7.

Arthur Gander, FIG President, has stated:

If the [Senate Commerce Committee]—I mean the government—would write us [that they] formed a new body—a governing body of gymnastics in the United States—well then, that is all right for us too.

Q. The new body would be automatically accepted?

A. *Automatically*, of course. (emphasis is original)

Interview with Arthur Gander, FIG President, in Tokyo, Japan, September 1967 (Tape recording on file in University of Southern California Law Library).

See note 40 *supra* interpreting IAAF rules in this regard and note 79 *infra* where the first paragraph of the letter from the IAAF acknowledges that the United States can make such a change. To the extent that the IAAF's refusal to accept such a change appears inconsistent with the interpretation of the relevant IAAF rules in note 40 *supra*, or with the above position of FIG, the second and third paragraphs of the same letter from the IAAF may limit the inconsistency to direct and continuing governmental influences.

[67] For example, North Korea boycotted both the 1967 World University Games and the 1968 Winter Olympics because FISU and the IOG, respectively, refused to recognize its entry as "The Democratic People's Republic of Korea" rather than "North Korea."

[68] Members of the International Olympic Committee are representatives of the Committee in their countries and not delegates of their country to the Committee. They may not accept from the Governments of their countries . . . instructions which will in any way bind them or interfere with the independence of their vote.

IOC HANDBOOK, art. 10, at 13.

National Olympic Committee must be completely independent and autonomous and in

a position to resist all political, religious or commercial pressure.

Id., art. 25, at 20.

. . . the Federations retain their complete autonomy, independence of action and national aims in their country's territory.

FIG HANDBOOK, art. 2, at 1.

[69] For example, consider the various YMCA programs.

[70] It is clear today, and it has been for the years since Jesse Owens' magnificent performance in the 1936 Olympics . . . that America's athletic fortunes are interwoven with our foreign relations. . . . Athletics have played a part in the cold war, and it is strikingly apparent that whatever limits America's ability to present its finest athletes in international competition clearly works against the best interests of our country.

Remarks of Senator Henry M. Jackson, *1965 Hearings*, at 4.

[71] *See* A. FLATH, A HISTORY OF RELATIONS BETWEEN THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION AND THE AMATEUR ATHLETIC UNION OF THE UNITED STATES (1905–63) 5 (1964).

[72] *Id.*, at xvi.

[73] AAU HANDBOOK at 41.

[74] *See* note 31 *supra* and accompanying text.

[75] Throughout the long history of this dispute the AAU has urged all other organizations to join the AAU as the solution to the problem, but the evolution of the problem has been exactly the opposite: organizations which were affiliated with the AAU have left the AAU; organizations which sought in vain to resolve the problem within the AAU or by agreement with it were unable to do so and instead have created the USTFF [and the USGF]. Today when the AAU still makes the same suggestion, it sounds as a shopworn and broken record to the athletes, coaches, athletic directors, trainers and high school and college officials to whom the very name AAU is a term of approbrium which stands for a parade of ill-mannered practices based on un-American assertion of control through the illegal use of the boycott.

NCAA, Position of the National Collegiate Athletic Association Before the Sports Arbitration Board, May, 1–2, 1967, at page 5. However, simply replacing the AAU with the NCAA supported United States Track and Field Federation (USTFF) or USGF would help very little to reach an effective solution; the dispute would continue, with the parties merely reversed.

[76] *Id.*

[77] *See* note 79 *infra* indicating that the IAAF's objects only to continued government control.

[78] *See* note 81 *infra* and accompanying text.

[79] For instance, an interview with Arthur Gander, President of FIG, disclosed the following:

Q. What authority [does] the AAU [have] as FIG's representative in our country?

A. The AAU is the only body in the United States who can arrange international competition with affiliated federations. . . . Further [the AAU] is the only body who select[s] an Olympic or a World Champion team. [The AAU] has the right to do it. How [the AAU] does it . . . it doesn't bother us, you know . . . how the [AAU] collects the gymnasts, well, we cannot change it.

Q. Any [FIG contest] must be sanctioned by the AAU [if it involves the United States] as the representative of FIG so that FIG is [in effect] sanctioning the meet. But now if we have a meet between the University of Southern California and Pennsylvania State University there is no AAU sanction and there is no FIG sanction. Why . . . if this is acceptable to FIG, and they make no concern over an internal competition, would FIG object, for example, if the USGF wants to run a national championship and they don't want an AAU sanction? Is this a different situation? The AAU says yes.

A. Your question concerning the [USGF] championships—if it must be sanctioned or not by the AAU—we do not know the regulations of the AAU concerning gymnastics in the United States. If the regulations of the AAU say every championship . . . other than [closed championships] must be sanctioned by the AAU, well then it is finished. [It is] *internal American business.* (emphasis added)

Interview with Arthur Gander, FIG President, in Tokyo, Japan, September, 1967. (Tape recording on file at the University of Southern California Law Library.)

The IAAF's position is as follows:

The AAU is the affiliated member of the IAAF and it alone is recognized. *Whereas Governments naturally have power in their own countries to set up any body that they like,* any body set up in opposition to our recognized member would in the I.A.A.F., and I feel sure in all other International Federations, not be acceptable, and any athletes not affiliated to our official body would be ineligible for international competition, including the Olympic Games. (emphasis added)

The position of government is quite clear; they are encouraged to provide finance for facilities and to help pay towards the cost of the administrators and coaches etc., but they are not acceptable *in the actual running of the sport* . . . the French Government the other day demanded that it should have two members on the French National Olympic Committee. This was not acceptable to the International Olympic Committee and the French National Olympic Committee was informed that it would lose its affiliation and therefore would not be eligible to send a team to the Olympic Games unless this section was deleted from its rules. (emphasis added)

Before the 1964 Games in Tokyo the Indonesian Government had set up its own organization to run an unlicensed meeting called GANEFO. Our member Federation did not take part in this but all the athletes who did were suspended and were unable, in spite of a great fuss made by their Governments, to compete in the Olympic Games in Tokyo.

Letter from the Marquess of Exeter, K.C.M.B., President, IAAF, to SOUTHERN CALIFORNIA LAW REVIEW, August 2, 1967. (On file in the University of Southern California Law Library.) The Marquess acknowledged the right of a government to establish a body to govern domestically. The IAAF's criticism is that the body would be subject to governmental influence. Such need not be the case. The body could operate under government charter but independent of government control. It could be similar to the federally chartered USOC, which the IOC has never questioned.

[80] The AAU contends that such a change, essentially a reapportionment of voting authority, is unnecessary because "all organizations [holding membership in the AAU] have a just and equitable voice. . . ." Hull, *As U.S. Governing Bodies, the AAU Must Play by International Rules,* AMATEUR ATHLETE, Feb. 1965 at 47. *But cf.* note 29 *supra* which discusses the voting inequalities in the AAU. It is possible that broader voting representation in the AAU would be a remedy to present difficulties. The long history of dispute, however, indicates that there may be significant psychological barriers to the now-dissenting organizations "joining" the AAU.

At the same time, it is imperative to recognize that such a new organization cannot be in the AAU and cannot be in any way under the authority of the AAU if the new organization is to have the support of the persons who are today conducting the track programs of the country.

NCAA, Position of the National Collegiate Athletic Association Before the Sports Arbitration Board, May 1–2, 1967, at 5.

[81] International rules provide that a national federation's membership in the international governing federation is conditioned on the national group being recognized as a national governing body in its country. *See* IAAF HANDBOOK, rule 8, at 43 and FIG HANDBOOK, art. 25, at note 66 *supra.*

[82] To illustrate: A United States team is to be selected to compete against an All-Star European track and field team. Is this selection a "domestic" or an "international" matter? Clearly the competition between the teams is international, but the selection of the United States team is not as readily classified.

[83] One of the obvious benefits from such an arrangement is the presence of "checks and balances." A recent example of communication failure illustrates a problem that would be solved if all interested parties had access to the international federations' decisions. In order to judge international gymnastics competition one must hold an international judge's certificate, obtained from FIG upon successfully completing their course of instruction. Such a course was conducted by FIG in Mexico City in July, 1967.

Was the AAU instructed that there was a limit as to the number of Americans that could attend the course? Answer of [FIG President] Gander: The number for the AAU was fixed on 5–7 men.

Letter from Arthur Gander, FIG President, to the Southern California Law Review, Oct. 3, 1967. On the other hand, the information disseminated prior to the course by the AAU was that:

Two judges from the United States may attend. All expenses for the course must be borne by the individual judge. (emphasis added)

Letter from Mr. Donald Wilderoter, Chairman, National AAU Gymnastics Committee, and Mr. Thomas Maloney, Chairman, National AAU Gymnastics Technical Committee to members of the national judges' list, May 26, 1967. (On file in the University of Southern California Law Library).

Although the change from "5–7" to "two" may have been a mere oversight, the problem is one of an apparent conflict of interest. Prior to this course Mr. Wilderoter and Mr. Maloney were the only FIG-certified judges in the United States; i.e., the only American judges eligible to officiate in international gymnastics competition. The threat to their "natural monopoly" was directly proportional to the number of Americans allowed to participate at the FIG course in Mexico.

Upon inquiry, Mr. Wilderoter and Mr. Maloney both expressed the view that the interests of United States gymnastics would best be served by qualifying as many American judges as possible, but indicated that they were under the impression that FIG had restricted United States participation to two judges. Interviews with Mr. Wilderoter and Mr. Maloney, respectively, March, 1968. (Tape recordings on file at the University of Southern California Law Library.)

Such apparent conflicts of interest cast the participants in an embarrassing light. And even an inadvertent mistake can impair the development of American atthletics. The proposed structure would minimize the chances of either intentional of unintentional error by broadening the basis of representation: instead of one association regulating its *competitor* associations, there would be one association, with internal checks, regulating its *member* associations.

[84] *See* A. FLATH, A HISTORY OF RELATIONS BETWEEN THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION AND THE AMATEUR ATHLETIC UNION OF THE UNITED STATES, (1905–63) (1964).

[85] Throughout two continuous weeks of hearings that have followed, it has been the expectation of the Committee that the parties to these disputes would agree to a solu-

tion, or at least to a means of affecting a solution, without any action by the committee or the Senate. However, it has become irrefutably evident that the primary disputants, the National Collegiate Athletic Association and the Amateur Athletic Union, have adopted positions which make a private reconciliation impossible.

S. Rep. No. 753, 89th Cong., 1st Sess. 29 (1965).

[86] Yet it is obvious to me that the leaders of both groups, instead of trying to settle their differences, are so busy trying to protect their own vested interests that their prime considerations—the best interest of the athlete, the best interest of amateur athletics and the best interest of the nation—have been forgotten.

Press Release, Statement of Senator James B. Pearson in the Senate, April 3, 1967 (on file in the University of Southern California Law Library).

[87] S. Res. 147, 89th Cong., 1st Sess. 77 (1965).

[88] For example, the resolution provides for arbitration for only those matters ". . . which are submitted to it by the parties to such disputes." *Id.*

[89] [O]ur authority to arbitrate derives from the Senate Resolution which in turn was accepted by the parties. There were, however, qualifications imposed, at least by the AAU, and subsequently by all of the parties. . . . It is our intention to make a decision in the near future which will be based on the authority we have pursuant to the Senate Resolution, taking into account the circumstances posed by the qualifications submitted by the parties. In the final analysis, I believe that the enforceability of our award will depend upon the support and acceptance it received from the public.

Letter from Mr. Theodore Kheel, Chairman, Sports Arbitration Board to SOUTHERN CALIFORNIA LAW REVIEW, June 6, 1967 (On file in the University of Southern California Law Library).

[90] The Sports Arbitration Board made its final report to the Senate Commerce Committee on February 1, 1968. In sum, the Board ruled that the AAU is the sole United States governing authority for international competition, but is not the national governing body for domestic purposes. The Board further opined that only open domestic meets have potential international significance that requires AAU sanctioning, and that sanction must issue automatically if international requirements are satisfied. The arrangement is to be binding for five years. The United States Track and Field Federation (USTFF) said it would not accept the Board's decision and will continue to run meets without AAU sanction. Los Angeles Times, Feb. 5, 1968, Pt. 3, at 2, col. 1–2. The NCAA also refused to abide by the Board's decision.

The NCAA and the USTFF feel they have gained nothing under the Board ruling. Their position is not without support. The AAU has been affirmed as far as the international authority. While the ruling says that they are not the national governing body domestically, and are compelled to issue sanction for open domestic meets when international standards are satisfied, little is gained here too. IAAF and FIG positions place the power right back with the AAU. *See* IAAF HANDBOOK, art. 54, note 44 *supra;* FIG HANDBOOK, art 30, note 56 *supra.*

About all that can be said for the action taken by Theodore Kheel's Senate-appointed committee to solve the . . . feud is that it took over two years to accomplish nothing.

[The] committee actually didn't change a thing. Los Angeles Times, Feb. 5, 1968, Pt. 3, at 2, col. 1–2.

[91] *See* Note, *Developments in the Law—Judicial Control of Actions of Private Associations,* 76 HARV. L. REV. 983, 990 (1963).

[92] It is my personal conviction, based upon competent, legal advice, that [AAU Rule I(2)(b), text at n.61] is in direct violation of the antitrust laws of the land. This opinion is submitted on the basis of legal advice from our own counsel as well as the respected deans of law schools and professors of law at highly respected institutions.

Mr. Walter Byers, *1965 Hearings,* at 386.

Effective November 1, 1968, the NCAA will resume enforcement of its own By-laws 7 (b) and (c) which prohibit NCAA athletes from certain competition:

7(b)

SECTION 1. No member institution shall be represented or permit its student-athletes to compete in any track and field meet which is not sponsored, promoted, managed and controlled by a collegiate entity unless such meet complies with the following requirements:

(a) The management of the meet must comply with the Association's principles of amateurism and all applicable interpretations.

(b) The sponsoring body must show evidence of sound management and the ability to conduct properly track and field competition. Any non-collegiate or non-conference sponsoring organization shall include in the membership of its administration committee at least two representatives from member institutions of this Association, one to be a faculty member and one to be an athletic official, to be appointed by the Extra Events Committee of this Association.

(c) The meet shall be conducted by competent track and field officials and proper medical supervision shall be provided as verified by the District member of the NCAA Track and Field Rules Committee from the District in which the event is located.

(d) Meets shall not be certified if they conflict with each other because of dates and geographical location.

NCAA, 1968 MANUAL 45–46. By-law 7(c) contains identical language covering gymnastics. *Id.*

The NCAA distinguishes By-laws 7(b) and (c) from AAU Rule I(2)(b): . . . The rule is not a restraint upon competition. It does not prevent a student from participating in any proper competition consistent with his educational program. In fact, it is a reasonable rule and a rule which is necessary to the internal operation of the NCAA and its member institutions' programs. This rule stands in sharp contrast to a rule such as AAU General Rule 1–(2)–(b) which is an out and out boycott rule which prevents any meet operator from sanctioning or accepting the sanction of any organization other than the AAU. That AAU rule in our opinion is illegal because it constitutes a boycott and because boycotts are a per se violation of the antitrust laws.

NCAA News, Feb. 1968, at 3.

It might be argued that the language of By-law 7(b) is less harsh than that of Rule I(2)(b), but history bears out that the difference is in form only. *See, e.g.,* the remarks of Gerry Lindgren and Tom Farrell note 3 *supra.*

[93] 356 F. 2d 371 (9th Cir. 1966).

[94] 238 Cal. App. 2d 255, 47 Cal. Rptr. 570 (Dist. Ct. App. 1965).

[95] NCAA, Position of the National Collegiate Athletic Association Before The Sports Arbitration Board, May 1–2, 1967, at 1.

[96] The league rules appear closely analogous to the AAU rule I(2)(b). *See* 356 F.2d 371, 374 (9th Cir. 1966).

[97] 359 U.S. 207 (1959).

[98] The court refuted this narrow construction citing *Radiant Burners, Inc. v. People's Gas Light & Coke Co.,* 364 U.S. 656 (1961) and *Jerrold Electronics Corp. v. Westcoast Broadcasting Co.,* 341 F.2d 653 (9th Cir. 1965), which both held group refusals by manufacturers or dealers to deal with customers to be per se violations of the Sherman Act.

[99] 238 Cal. App. 2d 225, 47 Cal. Rptr. 570 (Dist. Ct. App. 1965).

[100] California's Antitrust laws, Bus. & Prof. Code § 16700 (West 1954).

[101] 238 Cal. App. 2d at 227, 47 Cal. Rptr. at 570.

Another antitrust argument is that AAU policies constitute a "tie-in." One might take the position that the AAU holds monopoly power in the "international market" (tying market) which it is trying to extend to the "domestic market" (tied market). *See, e.g.,* United Shoe Mach. Corp. v. United States, 258 U.S. 451, (1922); International Salt Co. v. United States, 332 U.S. 392 (1947); Northern Pac. Ry. Co. v. United States, 356 U.S. 1 (1958).

[102] Note, 72 YALE L.J. 1362 (1963).

[103] *Id.* at 1387.

[104] *Id.*

[105] 270 F. Supp. 767 (E.D. La. 1967).

[106] *Id.* at 774.

[107] It might seem that admission would also mean voting power. But if the court's reason for ordering admission was to preserve a plaintiff's athletic "standing," it would be unnecessary to give the plaintiff voting power also.

[108] *See, e.g.,* Magnuson Remarks, *supra* note 6. Jurisdiction for Congressional action can be derived from the commerce clause. *See, e.g.,* Washington State Bowling Proprietors Ass'n v. Pacific Lanes, Inc., 356 F.2d 371 (9th Cir. 1966). The court found that the boycott reduced the plaintiff's ability to draw out-of-state bowlers or conduct major tournaments with inter-state attendance, and caused a decline in inter-state transactions such as the rentals and sales possible to a successful business.

[109] *See generally* note 79 and accompanying text.

[110] Mr. President, the proposed United States Track and Field Association would be the supreme policy making body of track and field in the United States. It is hoped, under the authority granted by this legislation, that it would be the United States representative in the International Amateur Athletic Federation. . . .

Press release, Statement of Senator James B. Pearson in the Senate, April 3, 1967 (on file in the University of Southern California Law Library).

The resolution is generally compatible with what has been said in this note, but some changes would be desirable. Section 3(7) includes "one from among representatives of the general public" on the Board of Directors. In order to avoid the difficulties encountered by France it would be advisable to exclude government participation. *See* IAAF position, note 79 *supra.* Section 8, which limits the Association's powers, should also preclude the Association from sponsoring programs that would bring it into competition with its member associations.

[111] *See* note 81 *supra.*

[112] Section 4(3) should be rephrased to more clearly reflect this view.

[113] Gymnastics is one outstanding example. FIG has acknowledged the problems in American gymnastics. *See* note 39 *supra.*

Mr. COOK. Mr. President, in an effort to seek a solution to this situation, I am today introducing legislation which would establish a Federal Amateur Sports Commission, which would have primary responsibility and authority for establishing one set of rules and regulations which would govern the participation of Americans in international athletic competition. The proposal is intended, purely and simply, to make it easier for the American amateur to compete internationally, by creating a body which will be responsive to his needs and will totally support and encourage his efforts.

This Commission, in addition to its basic rulemaking authority, would have

jurisdiction over the athletic facilities of federally supported institutions, and would be able to make these facilities available for the use of all of our amateur athletes when they are not in normal use. The Commission would also conduct investigations and studies aimed at improving the condition of our facilities, as well as studies of safety and health factors in sports. All of these areas are now the sources of serious problems for our athletes; and I believe a Federal organization is required to give for international athletic programs the support and encouragement they so desperately require. I ask unanimous consent that this legislation, "the Federal Amateur Sports Act of 1973," be printed in full in the RECORD.

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

S. 1192

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

STATEMENT OF FINDINGS

SEC. 2. The Congress hereby finds that—

(1) amateur athletic competition performs a useful role in the development of the individual and the enrichment of his experience;

(2) athletic competition between citizens of different nations provides a valuable exchange of cultural and personal ideas, and thereby contributes substantially to the ideals of international cooperation in all fields;

(3) the diffusion of authority over amateur athletics among various organizations in the United States has resulted in a lack of coordination which handicaps the individual athlete in international competition;

(4) the United States has a vital interest in assuring that its amateur athletes are offered the greatest support in their training and development in order that they will be able to successfully represent the United States in international athletic competition;

(5) amateur athletes should be given the widest latitude in relation to the development and refinement of their athletic talents; and

(6) the existing amateur athletic organizations do not provide the coordination and cooperation necessary for the achievement of the aforementioned goals.

DECLARATION OF PURPOSE

SEC. 3. The Congress hereby declares that—

(1) it is the purpose of this Act to protect and promote the interests of the individual amateur athlete in the United States and to provide the coordination of efforts necessary to assist American athletes in their development and training, by establishing a Federal Amateur Sports Commission.

(2) it is the purpose of the Commission to promulgate rules and regulations which will improve the coordination of the various amateur athletic organizations and aid in the development of amateur athletic programs in the United States, and thereby in the competitive ability of American athletes in international athletic competition.

(3) it is also the purpose of the Commission to study and analyze the development and use of athletic facilities in the United States and to coordinate the use of those facilities in order to better serve in the development of amateur athletics in the United States; and

(4) it is also the purpose of the Commission to study all factors of athletic competition which relate to the safety and health of athletes, including techniques and procedures for treating injuries and other ailments which result from, or hinder, athletic activity.

SEC. 4. As used in this Act—

(1) the term "amateur athlete" means an athlete who is not remunerated for his athletic performances, except for the payment of expenses incurred incident to his athletic performances.

(2) the term "international athletic competition" means athletic competition in which an athlete or athletes of the United States compete with or against an athlete or athletes of any other nation.

(3) the term "athletic facilities" means any structures or areas of land in or on which it is intended that athletic activity will be conducted.

(4) the term "amateur organization" means any organization which sponsors, sanctions, organizes, or in any other manner controls or supervises the conduct of amateur athletic competition in which citizens of the United States participate.

FEDERAL SPORTS COMMISSION

SEC. 5. (a) A Commission in hereby created and established within the Department of Commerce to be known as the Federal Amateur Sports Commission (hereinafter referred to as the "Commission") consisting of three Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman shall be the principal executive officer of the Commission and, when so designated, shall act as Chairman until the expiration of his term of office. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b) The Commissioners first appointed under this section shall continue in office for terms of three, four, and five years, respectively, from the date of enactment of this Act, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of expiration of the term for which his predecessor was appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office and except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term.

(c) Not more than two of the Commissioners shall be appointed from the same political party. No person in the employ of, or holding any official relation to any national or international amateur athletic organization shall enter upon the duties of or hold the office of Commissioner. Commissioners shall not engage in any other business, vocation, or employment.

(d) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Federal Amateur Sports Commission."

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(96) Members, Federal Amateur Sports Commission."

(e) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. Two members of the Commission shall constitute a quorum for the transaction of businesss. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually select a Vice Chairman to act in the absence or in the case of the disability of the Chairman or in the case of a vacancy in the office of Chairman.

(f) The Commission shall maintain a principal office and may meet and exercise any or all of its powers at any other place. The Commission may, by one or more of its members or by such agents or agency as it may designate, prosecute any inquiry necessary to its function anywhere in the United States. A Commissioner who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the Commission in the same matter.

(g) The Commission shall prepare and submit to the President for transmittal to the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include:

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the status of amateur sports including, but not limited to, the condition of relations among other amateur sports organizations, the status of efforts to improve safety and health in athletics, the development of programs designed to promote and improve the performance of American athletes in international competition, the status of research into methods for the construction and improvement of athletic facilities, and reports on any problems which may be found to exist in the Commission's jurisdiction;

(2) an evaluation of the degree of observance of Federal amateur sports rules and regulations, including a list of enforcement actions, court decisions, and compromises of alleged violations;

(3) a summary of outstanding problems confronting the administration of this Act, in order of priority;

(4) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act;

(5) the extent of cooperation between the Commission officials and the various organizations in the implementation of this Act, including a log or summary of meetings held between Commission officials and other interested parties; and

(6) an appraisal of the significance and potential effects of any legislation at the State, local, or Federal level which relates to the responsibilities of the Commission.

(h) That report required by subsection (g) shall contain such recommendations for additional legislation as the Commission deems necessary to remedy problems which relate to its jurisdiction.

(i) The Commission shall appoint an Executive Director, a General Counsel, a Director of Information, and such other officers and employees as are necessary in the execution of its functions. Commission employees shall be subject to the provisions of title 5, United States Code, governing appointments in the competitive service.

FEDERAL SPORTS RULES

SEC. 6. The Commission shall have authority to promulgate rules or other regulations which relate to—

(a) "the participation of American citizens in international athletic competition". Rules or other regulations promulgated pursuant to the authority vested in the Commission by this subsection shall preempt any other rule or regulation of any other association which relates to participation of American citizens in international athletic competition.

(b) the use and availability of the facilities of all educational institutions which receive, directly or indirectly, financial assistance from the Federal Government: *Provided, however,* That any rule or other regulation promulgated by the Commission pursuant to this subsection shall not affect the use of such facilities for the normal educational and athletic purposes of any such institution.

AMENDMENTS TO EXISTING LAWS

SEC. 7. (a) Section 3(3) of the Act of September 21, 1950 (64 Stat. 900, 36 U.S.C. 373) relating to the United States Olympic Committee, is amended by striking the entire

subsection, and inserting in lieu thereof the following:

"to exercise primary responsibility for the organization of the Olympic Games and the Pan-American Games when celebrated in the United States."

(b) Section 3(4) of the Act of September 21, 1950 (64 Stat. 900, 36 U.S.C. 373) relating to the United States Olympic Committee, is amended by inserting after the word "States," the following words:

", subject to the rules and regulations promulgated by the Federal Amateur Sports Commission relating to the participation of United States citizens in international athletic competition,"

(c) Section 4(1) of the Act of September 21, 1950 (64 Stat. 901, 36 U.S.C. 374) relating to the United States Olympic Committee, is amended by striking the words "to organize, select, finance, and control," and inserting in lieu thereof the words:

"to organize, finance, and select, subject to the rules and regulations promulgated by the Federal Amateur Sports Commission relating to the participation of the United States citizens in international athletic competition,"

SEC. 8. Administrative proceedings of the Commission shall be conducted in accordance with the provisions of subchapter II of Chapter 5 of title 5, United States Code, and judicial review, in accordance with Chapter 7 of title 5, United States Code.

SPORT ADVISORY COUNCIL

SEC. 9. (a) The Commission shall establish an Amateur Sports Advisory Council which it may consult before prescribing a sports rule or regulation. The Council shall be appointed by the Commission and shall be composed of eight members, each of whom shall be qualified by training and experience in one or more of the fields within the jurisdiction of the Commission. No member of the Council shall have held any official position with any organization whose activities relate to the jurisdiction of the Commission.

(b) The Council may propose amateur sports rules and regulations to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and record of each proceeding shall be available for public inspection.

(c) Members of the Council who are not officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

DIVISION OF ATHLETIC FACILITIES

SEC. 10 (a) The Commission shall establish within its organization the Division of Athletic Facilities, which shall be authorized:

(1) to gather, analyze and make available information relating to existing and/or potential procedures for the financing, construction, maintenance and use of athletic facilities;

(2) to consider methods for the economical renovation, expansion, beautification, alteration and conversion of existing athletic facilities in order to best meet the requirements of the communities in which they are located. Such methods should be directed toward the goal of developing facilities which will meet the optimum degree of flexibility, so as to provide the most economical usage within a community:

(3) to study the relationship between athletic facilities and the neighborhoods and communities in which they are located, and to recommend methods of minimizing the impact of the facility on the neighborhood or community. Particular emphasis will be placed upon the impact of the facilities on traffic patterns, law enforcement, and adjacent or nearby housing, and commercial activities.

(4) to provide consultant services, on a remunerated (fee) basis, to private interests and state or local governments which may require such assistance.

(b) The Commission shall appoint a Director of the Division of Athletic Facilities and such other officers and employees as are necessary in the execution of its functions. Employees of the Division of Athletic Facilities shall be subject to the provisions of title 5, United States Code, governing appointments in the competitive service.

DIVISION OF SAFETY AND HEALTH

SEC. 11. (a) The Commission shall establish within its organization the Division of Safety and Health which shall be authorized:

(1) to gather, analyze, and make available information relating to safety in athletics, and to make recommendation for promoting greater safety in athletic activity.

(2) to study the use of drugs and other medications in treating the injuries of athletes, and the effects of such use of drugs and other medications on the athlete during and subsequent to his or her athletic career.

(3) to study the techniques or physical therapy currently used for the treatment of the injuries of athletes, and to encourage and promote the development of such techniques.

(4) to study the effectiveness of existing athletic equipment in preventing and reducing injuries resulting from athletic activities, and to make recommendations for improving the effectiveness of such equipment. Such studies shall include the safety and health factors of the facilities in and on which athletic activity is conducted, such as playing surfaces, restraining devices, etc.

(b) The Commission shall appoint a Director of the Division of Safety and Health and such other officers and employees as are necessary in the execution of its functions. Employees of the Division of Safety and Health shall be subject to the provisions of title 5, United States Code, governing appointments in the competitive service.

ADDITIONAL POWERS OF THE COMMISSION

SEC. 12. (a) The Commission, or any two members thereof, as authorized by the Commission, may conduct hearings at its office or otherwise secure data and expressions of opinion pertinent to the jurisdiction of the Commission. The Commission shall publish notice of any proposed hearings in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, amateur sports organizations, individuals, and other associations to submit in writing such reports and answers to questions as the Commission may prescribe; 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 the case of disobedience to a subpena or order issued under this subsection, to invoke the aid of any disrict court of the United States in compliance with such subpena order;

(5) 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 paragraphs (3) and (4) of this subsection; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) Any district court within the United States within the jurisdiction of which any inquiry is carried on may, upon petition by counsel for the Commission, in case of refusal to obey a subpoena or order of the Commission under subsection (b) 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.

(d) The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(e) The Commission is authorized to establish such policies, criteria, and procedures and to prescribe such rules and regulations as it deems necessary to administer this Act and its functions hereunder. Unless otherwise specified, the provisions of title 5, United States Code, section 553, shall apply to such proceeding.

COOPERATION WITH FEDERAL AGENCIES

SEC. 13. The Commission is authorized to obtain from any Federal Department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to amateur athletics shall, to the maximum extent practicable, cooperate and consult in order to ensure fully coordinated efforts.

ENFORCEMENT INJUNCTIONS

SEC. 14. Upon applications by the Attorney General, the district courts of the United States shall have jurisdiction to enjoin the Commission of acts in violation of any rule or regulation issued pursuant to section 6, and to compel the taking or any action required by this Act.

INTERPRETATIONS AND SEPARABILITY

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to any other person or circumstances shall not be affected thereby.

AUTHORIZATION OR APPROPRIATIONS

SEC. 16. There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act, the following sums: $3,000,000 for the fiscal year ending June 30, 1975; $5,000,000 for the fiscal year ending June 30, 1976; and $5,000,000 for the fiscal year ending June 30, 1977.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 427

At the request of Mr. KENNEDY, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 427, the Development Disabilities Services and Facilities Construction Act of 1973.

S. 471

At the request of Mr. CHURCH, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 471, to

encourage State and local governments to reform their real property tax systems so as to decrease the real property tax systems so as to decrease the real property tax burden of low- and moderate-income individuals who have attained age 65.

S. 522

Mr. MOSS. Mr. President, I ask unanimous consent that the Senator from Alaska (Mr. STEVENS) be added as a cosponsor of my bill, S. 522, "Fish Disease Control Act of 1973."

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

Mr. STEVENS. Mr. President, I am pleased to cosponsor S. 522, the "Fish Disease Control Act of 1973." This is a worthy piece of legislation. It attempts to control several vicious diseases which attack and destroy many thousands of fish annually. Animals, not only in Alaska, but throughout the United States, will be saved as a result. Trout and salmon as well as various other species have a great deal at stake in this legislation.

Dr. Joseph Linduska of the Bureau of Sport Fisheries and Wildlife testified before the Subcommittee on Oceans and Atmosphere on November 24, 1971, that during 1970 commercial and sport fishermen took a combined salmon and steelhead catch total worth over $90 million in the Pacific Northwest. The commercial trout fishery during 1971 produced over 25 million pounds of trout which were worth over $14 million. Several diseases hang like the "sword of Damocles" over our valuable fish. These are whirling disease, which causes severe crippling and frequent spells of mad "tail chasing", and infectious pancreatic necrosis (IPN). Another disease which has not yet been found in North America, but which has run rampant in European trout is viral hemorrhagic septicemia (VHS). Not only these diseases but channel catfish virus disease and other severe sicknesses will be combated by this bill.

I have sought out the position of the Alaska Department of Fish and Game on this legislation. That department strongly supports the bill and has urged my cosponsorship. They have informed me that the bill will benefit Alaska commercial fisheries and recreational fisheries by preventing the importation and introduction from foreign countries and other States of serious fish diseases.

Mr. President, I request unanimous consent that a short statement by Commissioner James W. Brooks of the Alaska Department of Fish and Game on this bill be printed in the CONGRESSIONAL RECORD in its entirety at this point.

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

The Alaska Department of Fish and Game urges your co-sponsorship of "Fish Diseases Control Act of 1973" with Senator Moss of Utah. This bill, if adopted, would benefit Alaska Commercial fisheries and recreational fisheries by preventing the importation and introduction from foreign countries and interstate transport of serious fish diseases. With uncontrolled shipment of live fish and eggs in foreign and interstate commerce, the appropriation for dissemination of dangerous fish diseases throughout the continent is magnified. The problem of controlling fish diseases exceeds regular boundaries and is of international significance.

The Alaska Department of Fish and Game supported resolutions for the introduction and adoption of protective legislation as regards to fish diseases at both meetings of the Western and International Associations of State Fish and Game Commissioners in 1972.

JAMES W. BROOKS,
Commissioner.

S. 707

At the request of Mr. RIBICOFF, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nevada (Mr. CANNON), the Senator from New Jersey (Mr. CASE), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CLARK), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Vermont (Mr. STAFFORD), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 707, a bill to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. CASE. Mr. President, I am glad to join in sponsoring S. 707 to give the consumer a stronger voice in the Federal Government.

Our bill will establish a Consumer Protection Agency to act as a consumer's advocate in the Federal Government and in the courts. It also will establish a council, along the lines of the Council of Economic Advisers, to advise the President on consumer matters.

Legislation to set up a Consumer Protection Agency has passed previously both Houses of Congress on different occasions by wide margins. Last year, the Senate sought to pass a bill nearly identical to S. 707, but this effort was thwarted by a filibuster in the closing days of Congress.

The need for a Consumer Protection Agency could not be more clear. For, each week and each year, the Federal Government makes numerous decisions which vitally affect the interests of American consumers.

The decisions are the result of formal and informal actions.

Formal actions, depending on a particular agency's rules, may be characterized by advance notice to the public, open hearings and a written record. In notice and comment type proceedings—also formal—the docket, or file of responses, is open to the public.

Formal actions may involve the Food and Drug Administration deciding the efficacy of a drug. Or it may involve actions by the Interstate Commerce Commission and the Civil Aeronautics Board on freight rates and fares.

Or, in another type of formal action, the Federal Trade Commission may conduct an investigation to determine whether a company should be punished for a deceptive practice, such as misleading advertising.

Another type of action—particularly susceptible to abuse—is the informal proceeding which is conducted out of sight of the public and usually without its knowledge. In a Senate Government Operations Committee report last year, it was estimated that "perhaps 90 percent" of the Government's work is accomplished informally.

The committee pointed out that such activities as the Government's investigation of interstate phone rates, the recall of adulterated food, and the removal of lead-based Christmas tree tinsel from the market all involve, or involved, informal actions, despite their potential impact on the consumer.

In an example of how far informal decisionmaking can go, the committee report took note of the Department of Agriculture's decision to permit cooked poultry in frankfurters and sausage. The Department not only kept the public in the dark as to its actions, but when it made them public it did so, according tc the report, in a "a secret USDA in-house publication."

In such cases the consumer interest is represented, if at all, after the informal decisions are made. By then it is usually too late to undo what damage has been done.

On formal matters, the consumer is handicapped by a lack of time and resources to do an adequate job in his own behalf. On the other hand, his industry counterpart will be well and fully represented and, furthermore, can write off the cost as an expense of doing business.

While the consumer is not without resources, these are not, at this time, an effective counterweight to the resources that industry and other special interests can bring to their side of a cause.

And so long as the consumer lacks the means for promptly, effectively, and consistently presenting his views, it is almost too much to expect that agency decisions and actions will reflect his concerns.

It is essential that balance be provided. The means for doing this is the establishment of a Consumer Protection Agency as provided by S. 707.

Under our bill, the CPA would have authority to intervene in formal agency proceedings, presenting evidence, cross-examining witnesses, and proposing findings and conclusions.

Before it can intervene, the agency would have to determine that a substantial consumer interest is at stake.

And where regulator and regulated engage in informal decisionmaking, the CPA will have the right to notice of such proceedings and to make the consumer interest known verbally or in writing.

Beyond this, the Agency will have authority to represent the consumer interest in court if any agency's action leads to litigation; to press Federal agencies to act when action is called for; to try to help consumers victimized in the marketplace, and to inform itself and the public about shoddy goods and shady practices.

The CPA is not established to be antibusiness. No doubt it frequently will advocate positions supported by all or parts of an industry where it is in the consumer interest to do so. Or it might initiate a complaint against an unethical firm which is giving an entire industry a bad name.

To the extent CPA is successful in its work it will improve the marketplace for consumer and honest businessman alike.

I believe our bill is essential to the greater protection of the consumer and I urge its enactment this year.

S. 1033

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the senior Senator from Minnesota (Mr. MONDALE) be hereafter listed as a cosponsor of S. 1033, the Timber Export Administration Act of 1973.

Mr. MONDALE has been of invaluable assistance to the continuing effort by the Subcommittee on International Finance to better understand the difficulties associated with unrestricted log exports. Although Mr. MONDALE is no longer a member of the Committee on Banking, Housing and Urban Affairs, as the chairman of the Subcommittee on International Finance, he exhibited an extraordinary awareness of, and concern over, the issue.

I am delighted to announce his cosponsorship of the proposal.

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

S. 1136

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 1136, the Public Health Service Act of 1973.

FEDERAL-AID HIGHWAY ACT OF 1973—AMENDMENT

AMENDMENT NO. 29

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. WEICKER, Mr. BIDEN, Mr. PELL, Mr. PASTORE, Mr. HART, Mr. BROOKE, Mr. RIBICOFF, and Mr. HATHAWAY) submitted an amendment intended to be proposed by them jointly to the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. KENNEDY. Mr. President, I am pleased to introduce, for myself and the distinguished Senator from Connecticut (Mr. WEICKER) and others, an amendment to S. 502, the Federal-Aid Highway Act of 1973.

Tomorrow, the Senate will begin debating whether we will open the highway trust fund to bus and rail mass transit or whether we will continue to deny to cities and States the flexibility to decide how best to meet their transportation needs.

This amendment is an effort to remedy the major flaw in S. 502, the failure to permit flexibility to cities and States in their use of non-Interstate Highway trust fund moneys.

As in the past, the committee bill would prohibit New York, Boston, and all other urban areas where some 75 percent of our population lives, from choosing to use a portion of their funds for rail mass transit.

The committee bill also backtracks from its own actions last fall by prohibiting rural States from choosing to use any portion of their rural fund allocation for public transportation of any sort.

Therefore, we feel it is urgent to offer an option to local and State governments, an option to decide locally on how much of the trust fund allotment should be used for building highways, how much for developing a bus mass transit, and how much for developing a rail mass transit system.

This amendment will allow cities and States to use their non-Interstate moneys, some $2.3 billion each year, for bus or rail mass transit as well as for building highways.

In providing this option, we have recognized the concern expressed by numerous Senators that the balance provided by the committee bill in the allocations of funds between States, and in the allocations between urban and rural areas within States, not be disturbed. We have added specific language therefore to this amendment to reemphasize the action already taken by the committee to insure that urban funds are spent in urban areas and rural funds are spent in rural areas.

But we are seeking to remedy the failure of the past 16 years, a failure to recognize that meeting America's transportation needs means developing a balanced transportation system. For 16 years, we have been passing out Federal funds through the highway trust fund to create a system that was so biased in favor of highway construction that other needs were not met.

Thus, since 1956 some $53 billion in Federal trust fund moneys have been spent to build highways, yet less than by one-tenth as much has been allocated for mass transit. Since 1950, some 268 mass transit systems have disappeared and a similar decline has occurred in intercity rail transportation, systems which have been virtually excluded from Federal assistance.

In this amendment, we merely are asking that cities and States have flexibility to determine how much of their non-Interstate Highway trust fund allocations will be used for building highways and how much for mass transit. We assume that most rural States will continue to spend their allocations on needed roads and we assume that many urban States will spend a portion of their funds on highways as well. But we believe they both should have the option to use a portion of their funds on public bus or rail transportation systems.

This amendment will give them that option.

Mr. President, Senator WEICKER and I have addressed letters to our colleagues explaining this amendment and providing as well a detailed explanation of its impact. I ask unanimous consent that they be printed in the RECORD along with several news articles on this subject.

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

U.S. SENATE,
Washington, D.C., March 12, 1973.

DEAR COLLEAGUE: We intend to introduce an amendment to S. 502, the Federal Aid Highway Act of 1973, which will be considered by the Senate later this week. The amendment would broaden the language of the Act to allow $2.3 billion in non-interstate highway funds to be used for mass transit each of the next three fiscal years.

The aim of our amendment is very simple: it would add a new dimension of flexibility on transportation planning where too little now exists. States and localities have not been able to use their allocations from the highway trust fund to meet transportation needs, only to build highways.

As ordered reported by the Senate Public Works Committee, the bill provides no option for any of the money to be available for any form of rail mass transit. Nor does the Committee bill this year permit rural funds to be used for any form of mass transit, even buses, except for a small demonstration program.

There are new innovations—commuter cars on existing rail lines, modern at-grade tram systems, monorails, and minirapid transit systems—as well as traditional bus and rail transit systems which have broad applications for meeting the nation's transportation needs. At a time when the Environmental Protection Agency has warned 67 cities that they must restrict auto traffic to meet Clean Air Act standards, when the Department of Transportation joins environmental groups in finding our transportation system suffering from urban congestion and imbalances in financing, and when 32 cities have blocked federally financed highway routes, the need for a balanced transportation system is apparent.

For that reason, we have proposed an amendment which provides an option to states and localities as to how best to use their non-interstate allocations. This amendment does not mandate any action, it merely permits greater flexibility to local and state government officials in deciding whether to build highways, to develop bus mass transit systems or to develop rail mass transit systems.

And as a result of suggestions made numerous Senators, the Amendment will insure that funds authorized for urban areas would be spent in urban areas, and that funds authorized for rural areas would be spent in rural areas. Thus, the amendment does not affect, in any way, the allocation between states, nor does it affect the urban-rural split of funds within states.

If you would like to join us in sponsoring this amendment, or if we can be of any further assistance, please have a member of your staff call Mark Schneider (54543) or Bob Dotchin (54041).

Sincerely,

EDWARD M. KENNEDY,
LOWELL P. WEICKER, JR.

EXPLANATION: KENNEDY-WEICKER AMENDMENT TO S. 502—FEDERAL-AID HIGHWAY ACT OF 1973

What the amendment does do:

1. It does permit states and local governments to use noninterstate urban monies for

rail mass transit, and bus mass transit in addition to highways in urban areas.

2. It does permit state governments to use non-interstate rural monies for bus and rail mass transit in addition to highways in rural areas.

3. It does permit the Secretary flexibility in the use of funds in national parks and on Indian reservations to meet transportation needs for building highways or developing bus or mass transit systems.

What the amendment does *not* do:

1. It does *not* affect the allocation of trust fund monies between states.

2. It does *not* affect the earmarking of monies by the Committee bill between urban and rural areas.

3. It does *not* affect the Interstate Highway Authorization.

4. It does *not* affect a single planning requirement contained in the Committee bill.

Thus, the Kennedy-Weicker Amendment simply provides the option to states and cities enabling them to decide for themselves how to meet their transportation needs, by developing bus and rail transit and by building highways. The amendment does not mandate a single bus system in urban or rural areas or a single rail mass transit system or a single highway. It merely provides the additional option of mass transit to states and cities in making their choices of how best to meet their transportation needs.

The effect of the Kennedy-Weicker bill is shown graphically below:

PUBLIC WORKS COMMITTEE BILL (S. 502)—KENNEDY-WEICKER AMENDMENT

Program	Fiscal year authorization (millions) 1974	1975	1976	Authorization amounts	Use of funds
Interstate	$3,250	$3,250	$3,250	No change	No change.
½ of 1 percent	50	50	50		
Total	3,300	3,300	3,300		
Rural:					
Primary	650	650	650	do	Option for bus or rail transit.
Secondary	350	350	350		
Total	1,000	1,000	1,000		
Urban:					
Urban system	850	850	850	do	Do
Urban extensions	350	350	350		
Total	1,200	1,200	1,200		
Rural demonstration	30	30		do	Do.
Park roads	30	30	30		
Indian reservation roads	75	75	75		
Other	465	365	365	do	No change.
Total	6,100	6,000	5,970		

OCTOBER 19, 1972.

The EDITOR,
Boston Herald Traveler and Record American, Boston, Mass.

DEAR SIR: I am writing to thank you for the support expressed in your September 26 editorial for my efforts to amend the 1972 highway act to permit highway trust fund money to be spent on mass rail transit, according to local communities' determination of how best to solve their own transportation problems. Unfortunately, the optimism expressed in your editorial was slightly premature.

The Senate passage of a slightly more limited amendment permitting flexibility in the use of $800 million as opposed to the $2.3 billion which I and Senator Weicker had urged was only one step. The House, where the highway lobby traditionally has been strongest, rejected that effort. And House conferees were not willing to take any action allowing even one dime from the highway trust fund to go anywhere except into more concrete.

The conference committee agreed to a one-year extension of existing programs, but the House did not act prior to adjournment. The result is a draw. The highway lobby succeeded in blocking the opening of a trust fund for a balanced transportation system but at the same time they lost their battle for across the board extension of highway programs. This assures us of another crack at the highway trust fund early next session.

I look forward to do all I can to see that we establish a balanced transportation system, and permitting funds from the trust fund to go to mass transit is one way to achieve that goal.

Sincerely,

EDWARD M. KENNEDY.

[From the Boston Herald Traveler & Record American, Boston, Mass. Sept. 26, 1972]

OF ROAD AND RAILS

The tremendous influence the highway lobby has exerted over the Congress since the multibillion Highway Trust Fund was created in 1956 appears to have been, if not broken, at least weakened in Washington last week.

We have no quarrel with highway construction, which has done much to open the Massachusetts countryside and make small towns accessible to the thousands of city dwellers who have fled to more inviting environments.

But their hope of enjoying their new surroundings depends to a large degree on their being able to commute daily to business without the aggravation and annoying and costly delays caused by traffic jams on overcrowded highways. Only a balanced transit system, a combination of safe, swift, convenient and time-saving rail transit as well as highways, can assure that.

The action of the Senate, in approving a $800 million amendment to the $18 billion federal highway authorization, would permit the states to spend that amount on rapid transit improvements in the form of railroad and subway construction and to purchase much needed equipment.

The MBTA and other public transportation systems in Massachusetts could benefit greatly from the federal funding in this pioneer legislation, if it survives in the House, where the fondness for highways is much more pronounced.

Actually, the $800 million is only a small part of the total needed to do the job properly. It is scarcely more than enough for this state alone to meet its growing needs. But it would be a start that is long overdue. The $2.3 billion which had been proposed by Senator Kennedy and Lowell Weicker of Connecticut would have been more realistic.

But the present amendment, sponsored by Sen. Edmund Muskie of Maine and Sen. John Sherman Cooper of Kentucky was strongly supported by U.S. Transportation Secretary Volpe; and on the basis of the broader bipartisan support was rated the better chance for passage.

Volpe's argument for federal support for rail transit was right to the point: "We need all modes of transportation in some of our cities and we need meaningful alternatives in all of our cities. This bill provides for these alternatives by giving local leaders the flexibility they need to attack the problems which are making our urban areas uninhabitable."

Anyone who has fought the traffic on the Expressway and the main highways to the north, south and west of the city, knows exactly what he meant.

[From the Evening Star-News, Feb. 4, 1973]

AUTOS VERSUS MASS TRANSIT—HIGHWAY TRUST FUND FACES NEW ASSAULT

As I went walking that ribbon of highway
I saw above me the endless skyway
I saw below me the golden valley
This land was made for you and me.

—WOODY GUTHRIE.

(By Martha Angle)

Hardly anyone walks the highways these days; it isn't safe. The skyways are split by freeway ramps and the valleys are blanketed in smog. The mark of the automobile is engraved on the land.

Americans last year traveled more than one trillion miles across 3.7 million miles of highways in more than 112 million motor vehicles.

Four out of five households owned at least one car, and 30 percent of them owned two or more. With only 5.7 percent of the world's population, the United States has 46.1 percent of the world's cars.

But America's love affair with the automobile is starting to sour, especially in the cities where vehicle emissions cloud the air, traffic jams fray the nerves and urban freeways slice through neighborhoods. The automobile's energy appetite has led to threats of gasoline rationing.

Congress this year will decide whether the federal government—which for the past two decades has lent its financial and political muscle to a vast expansion of America's highways and automobile travel—should now shift its priorities towards other forms of transportation, most notably mass transit.

On Wednesday, the Senate Public Works Committee will open hearings on the proposed Federal Aid Highway Act of 1973, legislation which will play a critical role in determining transportation policy directions for the rest of this decade.

Highway aid bills normally are enacted in even-numbered years. But the divisions in Congress are so deep that the House and Senate deadlocked over last year's bill and it died on the final day of the 92nd Congress.

The fight centers on whether the 17-year-old Highway Trust Fund—which has always been reserved exclusively for road construction purposes—should be opened up for mass transit spending, including outlays for rapid rail.

The Senate last year voted to "bust the trust." The House refused to consider it. Lobbyists on both sides of the issue are gearing up for a massive tug-of-war.

Leading the fight to open up the trust fund is the Highway Action Coalition, an amalgam of approximately two dozen civic, environmental, labor, health and political organization directed by 24-year-old John D. Kramer.

Battling to preserve the sanctity of the fund, and to expand rather than reduce outlays for highway construction, are a number of interest groups that make up the so-called "highway lobby." Prominent among them are the Highway Users Federation, the American Road Builders Association, the American Association of State Highway Officials and the American Trucking Association.

The Highway Trust Fund, created by Congress in 1956, is financed through highway user taxes—primarily a four cents per gallon gasoline tax, plus levies on trucks, automotive parts, tires and lubricating oil.

With an annual income now approaching $6 billion, the fund permits road construction on a pay-as-you-build basis. As of last Oct. 1, the federal government had spent $55.6 billion in Highway Trust Fund money, according to the Federal Highway Administration.

The balance on hand in the trust fund as of Jan. 1 was $4.68 billion—a figure which rises every day as tax revenues flow in. The unpaid obligations as of the same day were $6.87 billion, an FHA spokesman said, a figure representing "projects in the pipeline."

The federal government has been in the road-building business for most of this century, and its involvement can actually be traced back to Article 1, Section 8 of the U.S. Constitution which authorizes Congress "to establish Post Offices and post roads."

In the early part of this century, federal highway aid was aimed largely at "getting the farmer out of the mud," as one official of the Highway Users Federation put it.

Then in 1944, Congress authorized creation of a national system of interstate and defense highways to link major cities and provide coast-to-coast highway routes.

With creation of the Highway Trust Fund in 1956, a road building boom began. Top priority was given to a 42,500-mile interstate system, with the federal government paying 90 percent of the cost and states the other 10 percent.

Federal funds for construction of primary and secondary roads, plus urban extensions of those routes, was made available to the state on a 50–50 matching basis. And in 1970, a $100 million pot was set up to pay for urban highways not fitting into the other categories.

With a secure source of funding, the federal aid highway program has been immensely successful. The interstate system is 80 percent complete, with 33,796 miles open to traffic. All told, about one-quarter of the nation's 3.7 million miles of highway have been built with federal assistance.

But critics charge that the existence of a huge reservoir of money reserved exclusively for highway spending has led to an excessive reliance on automotive travel to meet transportation needs.

"It's a self-perpetuating argument," said Kramer.

"Since the money can only be used for highways, expenditures on highways have gone up inexorably. The more you drive, the more gas you use, which means that more money flows into the trust fund and more roads are built—which encourages you to drive more," Kramer said.

Sen. Lowell P. Weicker, R-Conn., a leading Senate advocate of opening up the trust fund to mass transit, said:

"Highways were our first priority when the Trust Fund was set up in 1956. But the building of highways became a national obsession—and this obsession has caused what can only be described as the 'great American motion sickness . . .'

"Seventy-five percent of our people now live in urban areas, and endless highways often do them more harm than good . . . We have become a nation of automotive lemmings."

But pro-highway forces contend that the resources of the Highway Trust Fund are inadequate to meet foreseeable road-building needs, let alone other types of public transportation such as rapid rail.

"Ground transportation is an underfunded service in the United States. We are not keeping up with the demands," says Peter G. Koltnow, vice president for professional affairs of the Highway Users Federation.

LEGISLATION OFFERED

"Highway taxes are not enough to keep up with highway needs, let alone transit," Koltnow said. "We believe transit deserves a long-range commitment of adequate funds, but not by shifting from pocket to pocket."

Weicker and Sen. Edward M. Kennedy, D-Mass., have introduced the most sweeping "trust-busting" legislation of this Congress.

Their bill would not touch some $3.25 billion set aside for interstate highway construction in the next fiscal year, but would give cities and states the option of using $2.75 billion in trust fund money either for highways (primary, secondary, urban extension and urban system) or for public transportation—either bus or rail.

Sen. Edmund S. Muskie, D-Maine, is chief sponsor of somewhat more modest legislation that would permit states to use up to $1 billion a year for public transportation projects instead of urban roads.

Muskie has also proposed that states be required to set up automobile emission inspection programs and his bill would allocate up to $350 million a year in Highway Trust Fund money to pay for these.

In addition, he would allow the secretary of Transportation to divert up to 10 percent of annual trust fund revenues (about $550 million) to emergency transportation programs in cities forced to reduce auto traffic to meet federal air quality standards.

The Senate Public Works Committee last year voted 8–7 against busting the trust, but was overridden when the full Senate adopted a slightly less expensive version of Muskie's proposal to make trust funds available for mass transit. But the bill died.

The committee bill introduced this year by Sen. Lloyd Bentsen, D-Texas, would make $650 million in trust fund money available for highway-related public transportation, including the purchases of buses. It would not allow spending for rapid rail.

The committee will probably support the Bentsen bill, but the full Senate is likely once more to go further and support trust fund expenditures for mass transit as well. "The question really is how pregnant are we going to be," one source commented.

Several factors could influence a floor vote on the issue. One is the departure of John Volpe as secretary of Transportation. Volpe, a committee source said, "really lobbied that provision (the trust-busting amendment) through the Senate."

BACKED BY ADMINISTRATION

Although the amendment carried by a 48–26 margin, he said, "it's hard to say how much of that was a personal tribute to Volpe and how much was the power of the administration."

The Nixon administration, as the President's transportation budget message makes clear, will once again support efforts to open the trust fund to mass transit spending. Volpe's successor, Claude Brinegar, will testify at Wednesday's hearing. But it is not yet clear how hard they will fight for their position.

Another factor which could prove important this year is the retirement of Sen. John Cooper, R-Ky., an enormously respected and effective advocate of trust-busting who was the ranking GOP member of the Senate Public Works Committee.

It was Cooper, more than any other single member, who held the Senate conferees in line during the closing days of the last session and refused to compromise on the trust-busting issue.

The House Public Works Committee is once again likely to resist efforts to open up the Trust Fund for mass transit, although there is an outside chance the committee might agree to make some money available for highway-related public transportation.

EXPECTED TO REACH FLOOR

Last year, a parliamentary ruling—coupled with an 8–7 vote in the Rules Committee—prevented a House vote on the trust-busting issue itself. The only floor vote came on a motion to waive a rule that was blocking debate of the issue, and that motion lost 200 to 168.

This year, the chances are good that the issue will at least reach the floor. There are four new members of the Rules Committee and a new chairman, and last year's parliamentary ruling could well be changed.

The House committee is not only fighting to block trustbusting moves; it is also pursuing a crusade of its own to create a whole new 10,000-mile "priority primary" highway system that foes have dubbed the "junior interstate system."

The Senate is opposed to creation of this new 10,000-mile network of dual highways, contending that a thorough study is needed before such a major expansion of the federal highway program is undertaken.

With the Highway Trust Fund now scheduled to expire in 1977, many senators feel it is time to take a hard look at the entire future of federal highway aid. To approve the 10,000-mile priority primary system at this point would almost certainly predetermine the continuation of the trust fund, they believe.

As the Senate committee prepares for this week's opening two days of hearings, lobbying groups of all persuasions are preparing testimony and swinging into action behind the scenes. The heat for the moment is concentrated on the Senate, since the House does not yet even have a bill introduced.

One new member of the Senate Public Works Committee has already started receiving letters from individuals and organizations in his home state congratulating him upon his assignment to the committee and seeking his support for keeping the Highway Trust Fund inviolate.

Several letters were from constituent organizations of the American Road Builders Association, which is made up of some 5,400 contractors, equipment manufacturers, county and municipal public works officials and engineering groups.

One letter, from a county engineer's office said: "These taxes (in the trust fund) are generated by road users and this money should come back to the roads, not mass transit. Let mass transit pay for itself!"

HEAT FROM BACK HOME

Daniel J. Henson, executive vice president of the American Road Builders Association—which has offices directly across the street from the Department of Transportation—said his organization's Washington office does not engage in direct Capitol Hill lobbying.

"We do run a lot of briefings here for our members, officers of our state chapters," he said. "We emphasize grass roots support; that's our attitude. I'm sure members of Congress really want to hear from their constituents.

The "heat from back home" lobbying technique is not the exclusive preserve of pro-highway interests, however. Kramer's organization, the Highway Action Coalition, began

prodding its constituent members through its newsletter as long ago as last November.

"While members of Congress are in their districts between sessions is a good time for catching up on some lost votes and paving the way to win votes from the new legislators," said the lead article in "The Concrete Opposition."

"The pro-highway heat is already on. The recess presents a rare opportunity for face-to-face meetings with your senators and representatives and you will be letting us all down if you do not take advantage of this opportunity," the newsletter warned.

[From the Washington Star-News, Feb. 5, 1973]

HIGHWAY TRUST FUND BATTLE HOLDS KEY TO AREA TRANSPORT

(By Martha Angle)

As Congress this week begins grappling with proposed new federal aid highway legislation, attention of legislators and lobbyists alike will focus primarily upon efforts to open up the long-sacrosanct Highway Trust Fund for mass transit spending.

The outcome of the fight may signal whether federal transportation policy for the rest of this decade will continue to emphasize highway construction and automobile travel or shift towards mass transportation, both bus and rail.

And the outcome also will have important consequences for the transportation systems of the D.C. area.

As a practical matter, even if the "trust busting" forces prevail in Congress, the amount of money likely to be made available for mass transit is little more than a drop in the bucket when measured against the needs of the nation's cities.

The construction of a rapid rail system is immensely expensive. The Washington area Metro system alone will cost an estimated $3 billion.

At best, Congress is unlikely to provide more than $1 billion annually in Highway Trust Fund revenues for mass transit projects across the country. The total annual revenues in the trust fund now approach $6 billion.

But there is a "sleeper" provision in all pending Senate versions of this year's highway bill that could free additional billions for mass transit spending and have sweeping ramifications in the District, Maryland and Virginia.

This provision, considered almost certain to be approved, would permit the secretary of Transportation—at the request of a state's governor and the affected local government—to eliminate non-essential interstate highway segments in urban areas.

The funds already set aside for construction of these urban freeways would remain available for use by the city involved on other urban roads or—if the trust-busting forces prevail—for expenditures on mass transit in that city.

In the District, for instance, some $1.2 billion is allocated for construction of 30 miles of interstate highway. But only 11 miles have actually been built, at a cost of some $459 million, according to the Federal Highway Administration.

CONTROVERSIAL PROJECTS

The remaining freeway segments include a number of extremely controversial and expensive projects such as the Three Sisters Bridge, the now-dormant North Central Freeway, the Potomac River Freeway and the K Street extension of Interstate Route 66. The K Street project, a 2.9-mile freeway stretch estimated to cost $243.6 million, is the single most expensive interstate segment in the nation.

If the so-called "interstate transfer" provision is adopted, along with language to make urban road funds available for mass transit, all of the District's unexpended interstate money would theoretically become available for new Metro lines or added buses.

Maryland and Virginia could be affected as well. In Maryland, according to the FHA, 326 miles of the planned 358 miles of interstate highway have been constructed. But only $781 million of the state's $1.89 billion interstate allocation has been spent.

INCLUDES I–66 SEGMENT

The remaining mileage is almost entirely for hotly contested urban freeways through Baltimore, and city interstate segments are the most expensive to build. Thus about $1.1 billion remains in the pot and could be used for transit purposes instead of roads if Congress adopts the two key provisions of the highway bill.

Virginia has built 843 miles of its 1,073-mile interstate network and has another 57 miles under construction. The state has spent $1.5 billion of its $2.4 billion allocation. Not much of the remaining mileage is in urban areas, but two projects which are include the Northern Virginia segment of I–66 and the approaches to the Three Sisters Bridge, totaling $107.7 million.

The interstate transfer provision permitting governors in conjunction with city officials to scrap previously planned interstate segments but still hang onto the money allotted for them grew out of last year's decision by Massachusetts Gov. Francis Sargent to cancel $1 billion worth of urban freeways in Boston.

Sargent also barred any increase in downtown parking in Boston and proposed a 15-year, $1.5 billion mass transit effort there.

RESISTANCE EXPECTED

The House, traditionally a bastion of pro-highway support, is expected to put up bitter resistance to both the interstate transfer proposal and to the larger bid to make urban highway funds available—at local option—for bus and rail mass transit.

In another move affecting the Washington area, the House is also expected to try again this year to mandate construction of the Three Sisters Bridge across the Potomac River.

Congress first ordered construction of the bridge—which is to carry the as yet unfinished I–66 across the river into the District—in the 1968 Highway Act, but a series of court challenges has halted all work on the project.

The U.S. Court of Appeals for the District ruled in October, 1971 that the Department of Transportation would have to hold further hearings and conduct more studies before construction could proceed. Last March, the Supreme Court turned down the government's appeal from that ruling.

But in an unusual judicial aside, Chief Justice Warren Burger said that "Congress may, of course, take any further legislative action it deems necessary to make unmistakably clear its intentions with respect to the Three Sisters Bridge project, even to the point of limiting or prohibiting judicial review of its directives."

The House last year seized upon Burger's suggestion and adopted language prohibiting any court from taking any action to impede, delay or halt construction of the bridge. Although the Senate refused to accept this language last year, a renewed House drive for its approval is almost a certainty.

MASS TRANSIT SUBSIDIES

There is one other pending tranportation proposal in Congress which may wind up as part of the 1973 Federal Aid Highway Act and which could affect the Washington area.

Sen. Harrison A. Williams Jr., D-N.J., has introduced legislation to make $800 million in mass transit operating subsidies available over the next two fiscal years out of general tax revenues rather than the Highway Trust Fund. A similar measure has been introduced in the House.

The Nixon administration, which favors making trust fund money available for mass transit construction, bitterly opposes operating subsidies for transit system contending that such subsidies would reward inefficiency and waste in local transit operations.

Nonetheless, the proposal carried easily in the Senate last year and was included in the final House-Senate conference version of the highway bill which died in the closing moments of the 92nd Congress. It stands a good chance of adoption again this year.

Mr. WEICKER. Mr. President, I am pleased to join with the distinguished Senator from Massachusetts in this amendment to S. 502—the Federal-Aid Highway Act of 1973—an amendment which would bring the greatest degree of balance to our transportation system.

Senator KENNEDY and myself, as well as Senators BAKER and MUSKIE, have offered amendments that would permit highway trust fund moneys to be used for mass transit. The Kennedy-Weicker amendment applied this broadened use to $2.3 billion of trust fund moneys, while the Baker-Muskie amendment has $850 million as its goal.

Mr. President, I would like to briefly explain how the Kennedy-Weicker amendment would operate.

It is important to note, at the outset, that the bill proposed by Senator KENNEDY and myself will in no way interfere with that portion of the trust fund set aside for completion of our Interstate Highway System. Our proposal would, however, give State and local governments the choice—and I emphasize the word choice—of spending noninterstate funds to the fullest advantage where buses, railroads, or subways present a more viable solution to the transportation problem.

In the simplest terms, then, this proposal provides that an estimated $3.25 billion, allocated for completion of the Interstate System, would not be touched.

The important distinction would be the treatment of an estimated $2.3 billion allocated for noninterstate funding. While there would be no requirement that these funds be spent on mass transit, States and cities would be given an option to spend their funds on rail or bus transit.

In urban areas, this amendment would allow the option of using moneys allocated under the noninterstate portion of the highway bill which sets aside funds for urban areas—and I emphasize the word urban—to be spent for rail or bus transit or for highways, in those same urban areas.

In rural areas, the moneys allocated for noninterstate rural projects under the highway bill could likewise be spent for bus and rail transit or for highways, in those rural areas.

Thus, the amendment assures that funds authorized for urban areas would be spent in urban areas. It does not, in any way, affect the urban-rural split of funds.

In addition, the amendment permits the Secretary of Transportation flexibility in the use of highway funds for national parks or Indian reservations for the construction of highways or for developing other types of transportation systems that may be more convenient for

hoards of visitors, or more accessible to lower-income populations.

Therefore, the amendment does not affect the allocation of moneys, as between States, in the highway bill reported out of the Public Works Committee.

It does not affect the allocation of moneys as between urban and rural areas.

It does not affect a single planning requirement as recommended by the bill that was recently reported out of the Public Works Committee.

It does not, of course, affect the Interstate System.

Mr. President, the senior Senator from Massachusetts and I have offered an amendment that is not antihighway in its purpose, but is only antirigidity. For the first time transportation decisions could be made by humans living in 1973, not a highway trust fund created in 1956. This proposal states that in diversity rather than sameness lies the answer to mobility in the United States.

Senator KENNEDY and I have proposed an amendment to the highway bill which would provide for flexibility. The Kennedy-Weicker amendment is reasonable, adequately financed, and has the greatest public support—and should be the law.

AMENDMENT NO. 30

(Ordered to be printed and to lie on the table.)

Mr. WILLIAMS (for himself, Mr. STEVENSON, Mr. PERCY, Mr. JAVITS, Mr. CASE, Mr. RANDOLPH, Mr. CRANSTON, Mr. BURDICK, Mr. HATHAWAY, and Mr. GRAVEL) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 502, supra.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 20 TO S. 929

At the request of Mr. PROXMIRE, the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of Amendment No. 20 to S. 929, setting a ceiling on spending in fiscal year 1974 at $265 billion.

NOTICE OF HEARINGS ON S. 707 AND S. 1160

Mr. RIBICOFF. Mr. President, the Subcommittee on Reorganization, Research, and International Organizations of the Committee on Government Operations and the Consumer Subcommittee of the Commerce Committee will begin joint hearings on S. 707 and S. 1160 on March 20, 1973. The hearings will commence at 10 a.m. in room 3302 in the New Senate Office Building.

ANNOUNCEMENT ON FIELD HEARINGS

Mr. PACKWOOD. Mr. President, as the ranking minority member of the Subcommittee on International Finance of the Committee on Banking, Housing and Urban Affairs, I am announcing at this time that field hearings will be conducted by the subcommittee on April 11, 1973, in Portland, Oreg., and on April 13, 1973, in San Francisco, Calif.

The purpose of these hearings will be to inquire into the need for additional legislative restrictions on log export activity. Legislation on this issue has been introduced by Senator CHURCH, Senator CRANSTON, and myself, S. 1033.

ADDITIONAL STATEMENTS

THE CAB—NEW ENGLAND'S LAST HOPE

Mr. COTTON. Mr. President, on Friday, March 2, the Valley News of Lebanon, N.H., reprinted on its editorial page a column from the Boston Globe entitled "Viewpoint: Delta Duck's Local Service."

Mr. President, in order that this article may be viewed in its proper perspective one should have an appreciation of the circumstances leading up to it. Briefly, on April 24 1972, the Civil Aeronautics Board—(CAB)—by a vote of 3 to 2, approved the merger of Delta Air Lines, Inc., and Northeast Airlines, Inc.—Docket No. 23315. At this same time, the CAB was confronted, also, with Delta's application in another proceeding before it, the New England Service Investigation, filed only a little over 1 month earlier on March 14, 1972, to delete from the post-merger certificate 18 of 26 New England area cities certificated to Northeast Airlines.

Mr. President, as the Honorable Robert T. Murphy, member of the CAB correctly observed in his dissenting opinion:

> Throughout this proceeding (until March 14, 1972) Delta has deftly sidestepped all requests to divulge its plans for service in New England on grounds that this is a matter for consideration in the *New England Service Investigation*.

On this same point, Mr. President, the majority opinion of the CAB noted the following:

> We have taken official notice of Delta's recent application in the *New England Service Investigation* to be relieved of responsibility in 18 of the 26 New England cities currently certificated to Northeast. Delta is within its rights in requesting such release. *However, its application is clearly contrary to one of the principal purposes of the Board in approving this merger—namely, improved New England service.*
>
> *We are not disposed to approve this merger merely to award Delta further North-South routes.* We note and rely upon assurances given by Delta during the course of oral argument in this case that it will faithfully discharge the full scope of its post-merger certificate obligations in regard to New England service.* * *"

Mr. President, it is in this context that the editorial reprinted from the Boston Globe notes the following:

> When Delta Air Lines won the right to fly into New England over the dead body of Northeast Airlines last August, it did so with the understanding that it would pick up responsibility for Northeast's local routes in addition to carrying travelers up and down the so-called 'Gold Coast' between Miami and Boston. Now Delta wants to stick with the bacon and get out of the boondocks, a petition we believe should be denied.
>
> * * * * *
>
> For Delta, which is the nation's fifth largest airline and its second most profitable, to seek now to dump its responsibilities to New England's outlying communities while keeping the cream of the lucrative Florida route seems the height of cynicism. The decision will rest with the five-member Civil Aeronautics Board, which is currently conducting a survey of the New England service area, with the examiner's report due sometime this summer.

Mr. President, I have been decrying the lack of adequate and reliable certificated air service to my State of New Hampshire and its sister New England States now for several years. Frequently, I have been criticized for taking too parochial a stand with respect to this and related issues, such as the Delta-Northeast merger and the pending New England service investigation. If this means that I have been doing my job as a Member of the U.S. Senate representing the interests of my constituents in the State of New Hampshire, as well as other New England States having a common interest in this problem, then I plead guilty with considerable pride.

But, Mr. President, I would hasten to point out that the results of the New England service investigation now pending before the CAB may have considerably broader implications and may serve as a bellwether for the fate of future air service to smaller communities throughout our entire Nation. Thus, my ongoing battle in what I view to be in the public interest to obtain a sound air transportation network for New Hampshire and New England may also have implications for many other States, such as Delaware, Illinois, Indiana, Montana, and Texas. For what I am seeking is only to insure that the Civil Aeronautics Board carry forth its congressional mandate under the Declaration of Policy of the Federal Aviation Act of 1958, as amended, and that it does, in fact, act in the "public interest."

Mr. President, I would like to point out that the CAB's concept of what constitutes the "public interest" has not been so narrowly construed as now appears to be the case. On March 3, 1965, the CAB, in *United Air Lines, Inc., Service to Providence, Rhode Island* (42 C.A.B. 105), addressed several issues, including whether the certificate of public convenience and necessity of United for its route 1 should be amended so as to delete Providence, R.I., pursuant to the carrier's application. Notwithstanding the recommendation of its own Bureau of Economic Regulation to grant United's application, the CAB denied it.

Mr. President, in reaching this decision the opinion of the CAB represents a striking parallel to the situation in my own State and other New England States. For example, concerning United's sales and promotional effort with respect to Providence, R.I., the Board observed:

> The sales and promotion staff never really had anything to sell.

And, quoting from the testimony of Rhode Island's witness:

> The point I am driving at is that United has carried on a progressive program of de-emphasizing service . . . They closed out their sales staff . . . . They carried on their operations through contracts with another airline. So I think it is a planned program.

Such, I submit, Mr. President, is the situation which has been prevalent during the last several years with respect to air service to northern New England.

Mr. President, the CAB then went on to observe the following in the United case:

The plain and simple fact is that United has been unwilling to provide the service and the equipment that would have developed the traffic potential available to it at Providence. . . . As a result, there never was full development of the traffic between Providence and points to the West to which United could provide one-plane service.

Again, Mr. President, the Board went on to note the following:

It is clear that United has a good market at Providence which it has failed to develop. *It is also evident that the service heretofore provided has not been satisfactory in meeting the needs of the public and is accountable for the limited traffic generated.*" (Emphasis supplied)

Mr. President, this simply begs the question as to what has happened since the CAB's denial of United's application to delete service at Providence, R.I. Well, in calendar 1962 United had some 700 departures, enplaning a litle more than 3,500 passengers. Later, in fiscal 1970 with newer equipment, it had more than 900 departures, but enplaned almost 35,000 passengers, or almost a tenfold increase. The point is, Mr. President, that, like any other service, patronage is dependent upon the quality and reliability of such service. But, perhaps of equal, if not greater, importance is the fact that here, in the case of United Air Lines, we had an unwilling or reluctant air carrier which was, in fact, required to fully perform a service obligation. It not only performed but performed well, as statistics now demonstrate. Unfortunately, our New England region has never really had the opportunity to demonstrate that with adequate and reliable certificated air service it, too, possesses the potential to generate a reasonable level of traffic.

Mr. President, the five members of the Civil Aeronautics Board represent New England's last hope in obtaining adequate and reliable certificated air service. And, I wish to emphasize that in the Delta-Northeast merger case the CAB seemed to be unanimous—all five members—in expressing shock, if not disbelief, at Delta's audacity, if you will, in seeking, just prior to the approval of the merger, to delete 18 of 26 New England service points in another proceeding. Members Murphy and Minetti in filing dissenting and separate statements, respectively, took the strongest position opposing the merger pending clarification of Delta's intentions to discharge its newly acquired service obligations in New England. But, even the three-member majority of the CAB, although approving the Delta-Northeast merger, did, in fact, note that the application to delete 18 of its 26 service points in New England was "clearly contrary to one of the principal purposes of the Board in approving this merger; namely, improved New England service." It is the intention of this Senator—and I would hope my colleagues in the Senate who are similarly situated or may be so in the future—to see to it that the CAB makes good on its stated word. In effect, the Board has said that Delta cannot have its cake and eat it, too. And while the Boston Globe editorial correctly observes "Delta Ducks Local Service," the Civil Aeronautics Board should not be permitted to duck its public interest obligation.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the full text of the article appearing in the Valley News of Friday, March 2, and a table concerning United Air Lines service and traffic at Providence, R.I.

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

DELTA DUCKS LOCAL SERVICE

When Delta Airlines won the right to fly into New England over the dead body of Northeast Airlines last August, it did so with the understanding that it would pick up responsibility for Northeast's local routes in addition to carrying travelers up and down the so-called "Gold Coast" between Miami and Boston. Now Delta wants to stick with the bacon and get out of the boondocks, a petition we believe should be denied.

There is no disagreeing that Northeast was killed off in large part because of its obligation to maintain service to New England's backwoods and waters. But the question remains of finding a solution that will not leave 18 outpost communities without air service of any kind.

We agree with Delta that this need not be and in some cases cannot be in the form of 30- and 40-passenger jet service making the required minimum one round trip a day. But the alternative of free and open competition for the local business by small commuter airlines doesn't work either. If direct service by Delta imposes an unreasonable burden on the carrier, a free-for-all among the commuter airlines fails to protect the passengers.

In the scramble for local business, commuter airlines appear and disappear almost monthly—the victims of under-funding, over-expansion and seasonal traffic. Without route protection, without schedule requirements and with unregulated fares, the small airlines cut each others' throats and all too often crash financially in the process. Among the victims locally in the past few years have been Cape and Islands Airways, Air Spur and Trans East. Executive Airlines, which cut into Cape and Islands' business from Nantucket through Hyannis to Boston, went into bankruptcy and had to be rescued by new management.

Everyone agrees that the answer is smaller planes and frequent, reliable service. This implies some sort of systematized approach to commuter airlines. And an example has been set by Allegheny Airlines which has contracts with 11 commuter airlines serving 20 communities. The commuters fly Allegheny's colors and must meet certain service standards in return for assistance with reservations, ticketing and ground services and, in most cases, a financial guarantee.

Delta wants no part of such close ties. And at least two New England commuter airlines agree. But public regulations, which they would prefer, would prevent competition, while the Allegheny system only offsets it by giving the Allegheny commuter an edge in the market. And it would require provision for a public subsidy rather than the private guarantee. Finally, public regulation, with all its red tape, might shut out such small but successful operations as Downeast Airlines, a one-man air service flying from Rockland, Me., to Boston, or Provincetown-Boston Airways, which operates only between Boston and Provincetown.

The merger between Delta and Northeast Airlines was approved by the Civil Aeronautics Board and okayed by a US Court of Appeals over a counter-proposal by Eastern and National Airlines that they would financially guarantee service to such points as Nantucket, Lebanon and Augusta, if they could split the rich East Coast service to Florida without competition from Delta.

For Delta, which is the nation's fifth largest airline and its second most profitable, to seek now to dump its responsibilities to New England's outlying communities while keeping the cream of the lucrative Florida route seems the height of cynicism. The decision will rest with the five-member Civil Aeronautics Board, which is currently conducting a survey of the New England service area, with the examiner's report due sometime this summer.

If the Allegheny commuter system could increase traffic between Johnstown and Pittsburgh from 16,462 in the last year of truck service to 37,000 in the first year of service by the commuter airline, the penalty to Delta might not be so high. The reward to New England's outlying communities could be enormous.

UNITED AIR LINES SERVICE AND TRAFFIC AT PROVIDENCE, R.I.

Type of aircraft	Departures	Passengers enplaned
Calendar 1962:		
DC-6	122	
DC-6B	463	
DC-7/7B	115	
Total	700	3,530
Fiscal 1970:		
B-727-100	423	
B-727-200	30	
B-737	459	
Total	912	34,506

Source: Airport activity statistics, CAB/FAA.

UNITED AIRLINES DAILY FIGHTS[1]

	To Providence		
	Number of flights	Equipment	Stops
At Dec. 1, 1962:			
Boston	1	DC-6B	0
Cleveland	1	DC-6B	1
Hartford	1	DC-6B	0
At Feb. 15, 1973:			
Chicago	[2]2	B-727	0
Cleveland	[2]1	B-737	0
Salt Lake City			
Boise			
Pendleton, Oreg			

	From Providence		
	Number of flights	Equipment	Stops
At Dec. 1, 1962:			
Boston	1	DC-6B	0
Cleveland	1	DC-6B	1
Hartford	1	DC-6B	0
At Feb. 15, 1973:			
Chicago	[2]2	B-727	0
Turnaround flight	1	B-737	1
Cleveland	1	B-737	0
Salt Lake City	1	B-727	1
Boise	1	B-727	2
Pendleton, Oreg	1	B-727	3

[1] Scheduled to operate 5 or more days per week.
[2] Turnaround flight(s).
[3] 1 turnaround flight.

Source: Official Airline Guide.

SENATOR KENNEDY'S ADDRESS ON AGE DISCRIMINATION

Mr. CHURCH. Mr. President, nearly 5 years ago the Congress enacted the Age Discrimination in Employment Act to protect persons 40 to 64 against age bias in hiring, discharge, compensation, and other conditions of employment.

However, advancing age still continues

to be a formidable obstacle for millions of mature workers.

And the 1972 report by the Secretary of Labor clearly shows that job bias because of age is still a very real and serious problem. Approximately one out of every three firms investigated during the past year were found to be in violation of the act.

Instances of refusals to hire increased from 683 in fiscal 1971 to 818 in fiscal 1972. Failure to promote mature workers was involved in 339 situations, nearly 28 percent greater than the previous year.

There was, however, one encouraging note: discriminatory advertising declined from 1,765 to 1,298.

Another important development is the recent Greyhound case, which may ultimately establish a landmark precedent concerning enforcement activities for the Age Discrimination in Employment Act.

In that case Federal District Judge Parsons held that Greyhound's policy of refusing to hire drivers over age 35 did not come within the act's exception for a bona fide occupational qualification reasonably necessary for the normal operations of its business.

Judge Parsons declared:

I believe strongly that functional capacity and not chronological age ought be the most important factor as to whether or not an individual can do a job safely.

A few weeks ago the National Council on the Aging conducted a seminar on the Age Discrimination in Employment Act.

This conference provided an excellent opportunity for representatives of private industry, labor, and Government, to exchange ideas and recommendations.

One of the highlights of the conference was an address made by Senator EDWARD KENNEDY. His presentation, as always, was well reasoned and powerfully presented.

His recommendations, it seems to me, merit serious and close consideration by the Congress.

For these reasons, Mr. President, I ask unanimous consent that the text of Senator KENNEDY's excellent presentation be printed at this point in the RECORD.

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

ADDRESS BY SENATOR EDWARD M. KENNEDY

I want to express my appreciation for the opportunity to address this seminar on the Age Discrimination in Employment Act. As always, it is a privilege to participate in activities sponsored by the National Council on Aging which has sought to serve the needs of the nation's elderly for more than two decades.

I want to thank Hal Sheppard for his kind introduction. Hal has been one of the foremost leaders in the field of aging and one of our most valued advisors.

I also want to express a special word of appreciation to Jack Ossofsky. As someone who has benefitted in the past from Jack's counsel on matters affecting the elderly, I can testify that the work he has done at NCOA has helped make it one of the most respected national organizations providing research, services and technical assistance on problems affecting the elderly.

The seminar today is no exception for it reflects the conviction of this organization that no man or woman should be disqualified from full participation in the life of the nation because of their age.

Yet no one, and particularly not you who are gathered here, can deny that competent, able and available men and women are rejected for work in America today solely because they are called old.

They are the workers turned into the street by a plant shut-down.

They are the workers forced into early retirement by both industry and government.

They are the workers who finally drop out, frustrated by the fruitless search for jobs, jobs that all too often have a sign over the door—"young only."

Discrimination against older workers in hiring and promotions and inadequate retirement policies reflect the youth-oriented side of our culture. But there is another strain as well, one that recognizes the values of experience and the dignity of age.

The toughest, most demanding job in the country is only a few blocks from here at 1600 Pennsylvania Avenue. And no one finds it strange that most of our Presidents were over 50 when inaugurated. Nor do we find it strange that the average age of Senate Committee Chairmen is over 60.

Also, it should be recalled that Hugo Black was not named to the Supreme Court of this land until the age of 51, where he served for 34 years and distinguished himself as one of our greatest Justices.

Yet, had he applied for work in most of our major corporations, he might well have been rejected.

The first national response to the problem of age discrimination in employment did not truly occur until 1964 when a Presidential order was issued establishing a policy of equal employment in hiring in the federal government.

Congress then also acted, adding a provision to the 1964 Civil Rights Act, calling for a "full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected."

The study found unemployment of older workers costing the economy one million man-years of productive output each year. It found laws to protect workers in only a few states and even those were full of loopholes and rarely enforced. And it found too that the rationale surrounding that discrimination was concocted more from old wives' tales than from reality. Competence, productivity, loyalty, experience, dependability and performance did not depend on age, the study found, but on the individual.

Its conclusion was that widespread, pervasive discrimination was present in every sphere of commerce, industry and government, and its consequences were individual suffering and the waste of vital human resources.

The Congressional response was the Age Discrimination in Employment Act of 1967. Its purposes were to promote employment of older workers based on ability—not birthdate; to prohibit arbitrary age discrimination; and to help employers and workers find ways to meet the problems arising from the impact of age on employment.

But passing legislation, particularly in the area of discrimination, does not assure its disappearance. And today, five years later, the picture that one finds is not bright.

Older workers still are the last to be hired and the first to be fired.

Today, 867,000 persons over 45 are out of work—a 45% jump in the past four years. And those between 55 and 64 have been out of work the longest, an average of four to five months.

What does that mean to the individual? It means savings wiped out. It means health insurance gone. It means a sense of self worth damaged perhaps beyond repair

Some are lost to the labor force forever. But they are not drop-outs. Society has pushed them out.

And the evils of discrimination fall across the whole range of our economy, hitting white collar workers and professionals as well as blue collar workers.

John Stanier was a Florida lawyer, former President of the Canaveral Chapter of the Federal Bar Association and a NASA legal advisor. He told a Senate Special Committee on Aging that his job was eliminated in 1969 when he was 46.

For two years, he searched for work in the legal field. He told the Committee: "It was then I learned of the rule of thumb practiced by major law firms. They do not employ lawyers over 40 years of age unless there is a very special circumstance."

Chloe Seymour of Roanoke, Alabama, had a similar story to tell. She was one of over a thousand workers who lost their jobs when a major textile mill shut its doors in Roanoke. Half of the work force were over 40, and like Chloe, had started in the mill in their teens and worked there all their lives. Four months later, 65 percent of those who were still out of work were 45 and over.

Forrest Hanna was another victim. He had been a worker at the Studebaker Plant in South Bend, Indiana. He testified: "Of course, when the plant closed, my 29 years, insofar as my pension was concerned, that went down the drain."

Eight years later his job with the State Labor Department was eliminated and his pension rights went down the drain again, because he had not worked the full 10 years. Now he is 59 and as he told the Committee, "I just won't have the time" to qualify for a pension in a new job.

For these men and women, the promise of equal employment opportunity that the Age Discrimination in Employment Act offered has not been fulfilled. And hundreds of thousands of others share the same disillusionment.

Congress provided the tools to do the job but they have been used all too seldom. Enforcement of this law—in an Administration that prides itself as a law and order Administration—has been far down on the list of priorities.

In fiscal year 1972, there were only 69 Labor Department positions specifically budgeted for implementing the ADEA. And the 1,000 Labor Department compliance officers devote only an estimated 10 percent of their time to investigating age discrimination. Yet they must oversee 685,000 establishments employing an estimated 20 million persons covered by the Act.

Today, nearly five years after the law took effect, there have been less than 120 suits filed. And the evidence is clear that the number of violations is continuing to rise. Of the 6,800 investigations conducted in FY 1971, 36% discovered law violations, up 14% from the previous year.

Although many conciliation efforts by the Labor Department have been successful, they rarely have the exemplary effect that vigorous law enforcement has. The recent Pan American Airways decision is a good example. It has sent shock waves through private industry, causing re-evaluation of existing policies affecting older workers. And yesterday's decision in the Greyhound case is a clear warning to private industry of the requirement to tear down age discrimination barriers.

But the private employer is not alone. The public employer often is just as blind to the worth of older persons. Instead of being the example of the model employer, the federal government too often is one of the leading offenders.

A study by Elizabeth Heidbreder of NCOA for the Senate Special Committee on Aging last year found federal training programs frequently are off limits to older workers.

And she also found that middle-aged federal employees are being asked to bear the brunt of the government effort to pare down the federal work force. More and more older workers are being ordered to retire. Thus, in the last two years, involuntary early retirements have been six times the level in 1969. Clearly, older workers are becoming the scape-goats of the federal bureaucracy.

I believe what is called for today is a national manpower policy that is committed to maximize the talents and skills of middle-aged and older workers and to remove all vestiges of age discrimination in employment.

First, there must be acceptance of the White House Conference on Aging goal of "free choice between continuing in employment as long as one wishes and is able, or retiring on adequate income with opportunities for meaningful activities." When middle-aged and older workers comprise more than a third of the nation's work force, we cannot afford to waste their skills and experience. I would urge as one step that your corporations consider joining NCOA and other groups in establishing a 40-and-older job-skills bank to try and prevent the waste of talent that is occurring today.

Second, both public and private training programs must be opened to older workers to enable them to update their skills so they may compete in the job market on equal terms with the young.

Too often, industries concerned with retooling their plants are unwilling to make the same investment in human beings as they do in machines. The Labor Department has been an accomplice in this practice, its policies effectively denying workers equal access to manpower training programs.

And there is much private industry can do. Companies such as General Foods, Corning Glass and Polaroid already have established counseling and re-training services. There is no reason why more major corporations cannot set up within their own companies, mid-career counseling and training centers to permit the re-tooling of middle-aged workers.

Third, the Age Discrimination in Employment Act should be extended to cover all employees in both the public and private sectors of the economy. And sufficient funds and personnel should be made available so that no company and no government agency can violate the law with impunity.

Fourth, we must offer the opportunity for second careers to older workers, through job redesign and job creation. In this regard, I have sponsored legislation to establish a community service employment program for persons 55 and older who lack job opportunities. Under this program, the Secretary of Labor would provide assistance to national voluntary agencies and state and local governments to employ older men and women in hospitals, schools, libraries and other community service agencies.

And the same concept should be tried in business and industry in an effort to adapt and restructure jobs specifically to employ older people—both full and part-time.

Finally, we must examine the entire field of involuntary retirement. Congress, five years ago, in the ADEA, charged the Secretary of Labor with studying this matter. But we are still waiting for that report. Hopefully, it will be completed soon and will form the basis for a complete re-examination of our retirement policies. For there are indications that they may need major adjustment.

The Social Security Administration in 1970 found that half the men subject to compulsory retirement received a 60 percent cut in their previous income upon retirement. And what is equally disturbing, more than half of those forced into retirement said they did not want to quit working. I believe that no man who wants to work and is able to do the job should be shoved onto the fringes of society. Yet that is what our compulsory retirement policies seem to be doing. Clearly, they need to be changed.

Other nations have seen the impact of medical advances and research showing that age does not necessarily mean deterioration of ability. And they have reversed the pressure toward early retirement.

Yet too often, we allow the elderly to become the victims of the technological age rather than the beneficiaries. Instead of recognizing the increased years that they have to contribute to society, we view them as obstacles to change and progress.

As a nation, we neither can afford nor countenance policies that banish middleaged and older persons from active participation in American life, exiling them as surely as if they were sent to Elba—their capacities unused, their talents unwanted, their ideas unexpressed.

To change that grim picture, we must have the cooperation of business and government. But with that cooperation, the prospect for achieving equal opportunity for all Americans becomes bright and we can look forward to the day when the old as well as the young enjoy the full promise of this great nation.

LOOKING BACKWARD AT THE WAR

Mr. SCOTT of Pennsylvania. Mr. President, the March 11 issue of the Washington Star-News included a column by Mr. William C. Moore entitled "Looking Backward at the War." In an interesting prepostmortem, Mr. Moore looks at history's treatment of past U.S. wars as a key to how historians will treat the war in Vietnam and its dissenters.

I ask unanimous consent that this column be printed in the RECORD and direct it to the attention of my colleagues.

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

LOOKING BACKWARD AT THE WAR
(By William C. Moore)

It is not unusual these days to hear the war in Vietnam described as a blot on the honor and morality of the United States.

Is history likely to assess Vietnam in such harsh terms?

Historians pride themselves on two scores:

1. They analyze events in a broad sense—in the light of strategic national objectives and policies, not day-to-day tactical successes or failures.

2. They accept no conclusions unless documented by exhaustive factual research of authoritative documents. They avoid speculation and emotional judgments.

Under these criteria, a fundamental fact that research will reveal to historians is this: The national policy of the United States for the past quarter of a century has been to contain communism, to prevent its spread into free, independent nations.

This policy, historians will find, has been implemented by every president beginning with President Truman. These are facts documented in National Security Council papers, some of which are already resting in national archives and available to all.

Historians will also find that every President, beginning with Mr. Truman, has taken action—sometimes diplomatic, sometimes economic, often military—to deter the expansion of Communist powers.

President Johnson and President Nixon saw Vietnam in the same light.

Already therefore, the thrust of history is fairly well set by the major events of our time, all of which center around efforts to prevent Communists from encroaching into the free world.

The Korean War, for example, will not be debated in the light of whether or not it was the first war Americans failed to win. It will be coldly analyzed in the light of whether it succeeded or failed to prevent Communist domination over South Korea. Historians will report that it succeeded.

Moreover, historians are not likely to be sidetracked by the rewriting of history by intellectual revisionists who currently are pushing the theme that the United States "overreacted" to some imaginary Communist threat. It is fashionable now to say that the U.S. overreacted, that Communism has not become the powerful, insatiable evil everyone predicted.

Who is to say what the Communists would have become if the U.S. had not reacted?

Historians will not waste research on such speculation. They will report that the Communists did try to take control of free world nations, including Vietnam, that the United States did react to prevent this.

Nor are historians likely to spend much time evaluating the influence or impact on history of the antiwar demonstrators. Every President has had his detractors during war.

Woodrow Wilson had his "imperialists" who deplored his idealism. They almost succeeded in passing a bill which would have formed a war cabinet to assist him in running the war. The "America firsters" exasperated Franklin Roosevelt. President Truman experienced intellectual "peaceniks."

But it was President Lincoln who suffered the most violent antiwar opposition of all. The most vocal and militant were called "copperheads." The similarity between them and the peace groups of today is striking:

The majority of them (the "fire in the rear" Lincoln called them) were liberal members of the Democratic Party in the northern states. They were activists, vocal, often disrespectful, always self-righteous.

Their leader was a distinguished Congressman—Clement L. Vallandigham.

Their talisman—worn as a sign of recognition and peace—was the center section of a copper coin bearing the head of the goddess of liberty.

Their premise was that the Civil War was immoral, illegal, and hopeless—a "big nothing" to use the vernacular of today's liberals. Mr. Lincon's actions, they argued, were unconstitutional; the South should be permitted to go its separate way.

The "Copperheads" did not prevail. President Lincoln held to the course he had set for the nation. History records how right he was. The "Copperheads" receive little attention in the sweep of history. Their only legacy is this: Some people won't fight, for anything, not even the greatest of causes.

It will take the long enquiry of history to explain the war in Vietnam. But most certainly this enquiry will not treat Vietnam in isolation. In the grand sweep of history it will be seen as one of a series of actions taken by free men to prevent the spread of an ideology alien to their freedom.

If historians judge U.S. policy of preventing the spread of Communism a moral one; if they judge this policy to be in the best interests of free men, then the war in Vietnam will be recorded as something quite different from a blot on the honor of this country.

History may simply record that just as Lafayette, Von Steuben, Kosciusko and their European compatriots fought in our revolution for no other reasons that to make us free, we fought in Vietnam for no other reason than to keep men free.

William C. Moore, a retired Air Force colonel, has written many articles on military affairs.

GREATEST BAND IN DIXIE

Mr. ALLEN. Mr. President, each year, as part of the Mardi Gras in New Or-

leans, top high school bands from throughout the Nation are invited to participate in the "Greatest Bands in Dixie" parade and in the "Parade of Champions."

I am proud of the fact that two bands from high schools in Etowah County, Ala., which is my home county, were among those invited to take part in the competition this year.

For the fifth time in the past 9 years, the 135-member Emma Sansom High School Band of Gadsden walked off with the top prize as the Greatest Band in Dixie.

The Etowah County High School Band was on its first trip to the Mardi Gras and won first place in the Parade of Champions.

Needless to say, I am proud of the young people whose efforts brought these prizes back to their home schools. They devoted many long hours of practice to attain the perfection necessary to win over the many other bands competing in New Orleans. Great credit goes to Pat Morrow, director of the Emma Sansom Band and Rip Reagan, the school's principal, and former director of many of Emma Sansom's championship bands of past years; and to Tom Cole, director of the Etowah Band and to H. Joe York, principal of Etowah County high schools.

All Alabamans are proud of the achievements of these bands.

In its March 7 issue the Gadsden Times published a fine editorial detailing the accomplishments of the two bands, and on the same day the Birmingham Post-Herald had a newsstory concerning the awards. I ask unanimous consent that these two articles be published in the RECORD.

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

EMMA SANSOM BAND "GREATEST"

GADSEN.—Continuing a trend that begun in the early 60s, the Emma Sansom High School Band was again named the "Greatest Band in Dixie" at the New Orleans Mardi Gras.

It marked the fifth time in the past nine years that the 135-member marching unit walked off with the top prize in the national event, a part of the Krewe of Mid-City Parade.

Penn Highland of Lewiston, Pa., came in second, followed by Central High of West Helena, Ark.

The band began its climb when Rip Reagan became director in 1960. He is now principal of the school.

TOP HONORS

Two fine high school bands are back home after taking top honors and bringing renown to their schools in weekend competition at Mardi Gras in New Orleans.

Emma Sansom's band was judged best in the "Greatest Bands in Dixie" parade.

Etowah, on its first trip to New Orleans, won first place in the "Parade of Champions."

Credit goes first of all to the young people who have disciplined themselves to put in the long hours of band practice necessary to achieve this high distinction; then to their schools which have provided the opportunity and qualified directors and to the community which believes that music is important and wants to make it available on every level.

The Times is proud of the trophies the two bands brought home. It is excited to note that out of eight tries, Sansom has placed first five times, second and third once each, and that Etowah on its first trip went straight to the top.

Even more important, though, is that so many young people are cultivating a love of music and a talent that will prove a lifelong pleasure.

LETTERS OF GRATIFICATION TO NIXON FROM POW'S

Mr. SCOTT of Pennsylvania. Mr. President, the ending of the Vietnam war has brought thousands of letters of gratification to the President, the most touching of which being from returning prisoners of war and their families. I ask unanimous consent that several of these letters be printed in the RECORD.

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

EXPRESSIONS OF APPRECIATION AND SUPPORT RECEIVED BY PRESIDENT NIXON FROM POW'S AND THEIR FAMILIES

In a cell in Hanoi carved in the wall is "God bless you Richard Nixon." Thank you Mr. President for your most gracious and thoughtful letter.

Lt. Cmdr. FREDERICK R. PURRINGTON,
USN POW, Boston Naval Hospital.

I know that we PW's and our families cannot begin to express our thanks for the courageous stand you made while under extreme pressure from some elements at home to trust our fate to the "good will" of the communists.

We who were there know that you took the only course of action the communists understand and respect.

We PW's know what great courage is required to hold firmly to a course you know is right even when you are all alone and no one may ever appreciate your sacrifice.

Lt. Col. ARMAND J. MYERS,
USAF POW, Medical Center, Lackland AFB.

The most important factor that influenced my morale as a prisoner of war was my faith and confidence in your personal integrity and moral courage. Hopefully future Presidents blessed with your example of leadership to emulate will never be faced with the situation you inherited. You have my support, trust and service for the rest of our lives.

Cmdr. THEODORE F. KOPFMAN,
POW, Oakland, Calif.

When we received word that you had been elected President of the United States of America, I knew that we were on our way to achieve an honorable peace. My faith in you and our fellow Americans never faltered. Thank you for returning us with honor. I assure you we return filled with pride and faith in the future. God bless you and God bless America.

Maj. ROBERT N. DAUGHTREY,
USAF POW,
Sheppard AFB Hospital, Texas.

I personally wish to thank you for your determined efforts to end this war with honor and bring me home.

Lt. Col. HARLAN P. CHAPMAN,
USMC POW, Naval Hospital, Oakland, Calif.

There is no way that I can express to you sir and the American people and my home town, Billings, Montana, the great joy and gratitude I feel for your efforts and the wonderful reception I am receiving. I feel extremely privileged to have been on the first C141 out of Hanoi and to have received a personal message from you sir along with the corsage for my mother. You have been an inspiration to me for years.

Lt. Cmdr. RODNEY A. KNUTSON,
USN POW, Billings, Mont.

My sincere gratitude for your very kind letter. I can only echo the words of some of my friends—it is indeed an honor to serve our country under adverse conditions. Added to this is the honor of serving under a commander in chief as yourself, a leader of the highest order. It was a real pleasure to observe developments in NVN during December 1972.

My belated congratulations on your success in the recent Presidential Elections. At a prison known as "Dogpatch," you were a ten to one favorite, and we were behind you all the way.

It's great to be back.

Maj. JON A. REYNOLDS,
USAF POW.

My family and I want to thank you from the bottom of our hearts for having the courage of your conviction to do what was necessary to bring Vietnam war to an end and reuniting me with my family. I am very proud to be an American and wear the uniform of the United States Air Force. May God bless you and United States of America.

Lt. Col. WILLIAM H. MEANS, Jr.,
USAF POW, Honolulu.

My son, Lee, and I are leaving to meet LDCR Larry Spencer in San Diego. I've had faith that you would do everything possible for our men ever since I shook hands with you and Mrs. Nixon in 1969. I didn't know then he was Iowa's first POW. It has been seven long years and we are grateful to you that he is coming home.

MYRA SPENCER,
Earlham, Iowa.

During the 1968 campaign I beseeched that you put prisoners of war high on settlement priorities. You have kept your promise and I thank you.

Mrs. GRETA TERRELL,
Wife of Lt. Col. Irvy David Terrell, Jr., Atlanta, Ga.

As a member of the National League of Families of POW's and MIA's in Southeast Asia, let it not be said that I forgot to thank you and all our leaders who have accomplished this agreement—to an honorable peace.

Miss LOUISE SETTERGUIST,
Duluth, Minn.

Because of you a relative of 6½ years as a POW is coming home. God bless.

CORREAN MANN,
Takoma, Wash.

It is weren't for you, Mr. Nixon, they wouldn't be coming home as soon as they are, and I would probably never be able to see my uncle again, alive. You're doing a great job, please keep it up.

Miss DEBRA MILLER,
Niece of a POW, Clinton, Iowa.

Our faith in your sincerity has never faltered. May God bless you and yours.

Col. and Mrs. PHILIP J. GALANTI,
Parents of Lt. Cmdr. Paul Galanti, USN POW, Gastonia, N.C.

Thank you for bringing peace to our country. I feel it will heal many wounds being suffered here and abroad.

Mrs. LAURA N. NEWCOMB,
Mother of Capt. G. Newcomb, USAF POW.

Thank you and God Bless You—Our son is on the POW List.

We were behind you all the way. We know Joe will want to thank you when he gets home—

JOSEPH A. ROSE, II,
Father of a POW, Clarksburg, W. Va.

Because of your perseverance for a just peace, John's and my separation was not in vain.

May God's light continue to shine on you and yours in the coming years.

SHIRLEY L. STAVAST,
Wife of Col. John E. Stavast, USAF POW, Clareont, Calif.

We as a family of a prisoner of war want to express our deep appreciation for your courage and determination on ending the war in Vietnam in an honorable way.

Mr. and Mrs. EUGENE PERRICONE,
Parents of SSG Richard R. Perricone, USA POW, Uniondale, N.Y.

Fruition of your hard work is deeply appreciated. Thank you for your concern and tribute.

Mrs. H. K. FLESHER,
Wife of Maj. Hubert K. Flesher, USAF POW, Rancho Cordova, Calif.

Thank you and Dr. Kissinger for making this negotiated peace a reality. It means a lot of different things to a lot of people but for our family it means a POW husband is returning. Thank you for keeping the confidence that we placed in your hands.

Mrs. DARLENE M. SEHORN,
Wife of Capt. James Sehorn, USAF POW, Forest Grove, Oreg.

Words cannot express the joy felt by our family last evening. Your courage, steadfastness and devotion to ideals and issues was apparent throughout the text of your statement concerning the treaty of peace in Southeast Asia. The comment on former President Johnson was most appropriate. Also the very warm thoughts concerning the families of the Prisoner and Missing reconfirmed your deep concern for these men and their families.

You have indeed made it possible for all men involved to return home with honor. Your fortitude will long be remembered by our family. Thank you.

SHIRLEY JOHNSON,
Wife of Samuel R. Johnson, POW, Plano, Tex.

On behalf of a group of Vietnam War Gold Star Mothers, I have been requested to express our gratitude and appreciation for the Peace with Honor you have made possible, and your remembrance of our beloved sons, who will never return to us, in your television and radio messages. It is these very thoughtful acts that make you the great American you are. We in turn pay homage to you and thank God you are our elected leader. Thank you from all of us.

BETTYANN HELENE FUNK,
Mother of a KIA.

Congratulations President Nixon!, not on winning any war, but on being a warm, and kind human being, and one of the most outstanding Presidents in the history our country.

Mrs. DOROTHY A. TETTE,
Sister of John B. Tette, KIA.

It is with great pride that I write you tonite, to thank you for all your efforts, your stand and determination to fight for and achieve an honorable peace.

Very much pressure was put upon you by political groups, war demonstrators, religious organizations and many many others. It has always been my prayers that you would not weaken to this pressure. Thank God you have finally reached this goal and reached an honorable cease fire.

ROBERT M. COMSTOCK,
Father of Sgt. Robert James Comstock, KIA, Lovilia, Iowa.

I am thankful for men like you who put their heart into helping their country. I am also thankful for an Honorable Peace. Now I can say with true conviction that PFC Ivan R. Smith did not die in vain.

Mrs. SHERRY L. LANAHAN,
Sister of Pfc. Ivan R. Smith, KIA, Greenwood, Ind.

CONGRESS SHOULD STUDY PROPOSED RULES OF EVIDENCE

Mr. ERVIN. Mr. President, on February 7, 1973, the Senate adopted S. 583, a bill to delay the implementation of the proposed rules of evidence for Federal courts. These rules have been submitted to the Congress by the Supreme Court upon the recommendation of the Judicial Conference and, absent congressional action, will have the full force and effect of law 90 days after their submission to Congress pursuant to the Rules Enabling Act.

The Senate acted wisely in delaying the implementation of these very controversial rules. The American Bar Association's House of Delegates, at its recent midwinter meeting in Cleveland, Ohio, supported the postponement of these proposed rules until Congress examines them carefully. Many individual members of the bar and private citizens have expressed concern about them.

In an editorial of March 12, 1973, the Evening Star also urges Congress to take the time required to give these rules careful consideration. The editorial correctly points out that the proposed rules go "beyond procedural reforms into substantive areas, and raise questions of intrusion on constitutional rights."

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

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

RULES THAT RAISE QUESTIONS

The Senate was right, we think, in voting to delay the implementation of those new rules of evidence which the Supreme Court has proposed for use by all the federal courts. They will automatically become effective July 1 unless Congress disapproves of them. A summary rejection would be unwise, but Congress certainly should take a long and studious look at them before deciding what to do. The House takes up the matter this week, and we hope it also will vote for a postponement of decision.

This isn't to say, however, that no decisions are needed. Some members of Congress probably have it in the back of their minds to permanently shelve the whole proposition. The Supreme Court has been accused of butting in on Congress' power to make rules governing the courts. But the argument over method shouldn't obscure the fact that a more uniform system is badly needed by the federal courts. As things stand, they encounter many administrative difficulties in conforming to the diverse rules of evidence of the various states. Measures to improve the efficiency of the federal judiciary are long overdue, and Congress should get some action underway.

The new rules it is now considering were drawn up by a committee of the Judicial Conference, and uniformity is their purpose. They represent years of study, and many of the proposed alterations have merit But the committee seems to have painted with much too broad a brush, going beyond procedural reforms into substantive areas, and raising questions of intrusion on constitutional rights. In other words, making law, instead of merely finding better ways to administer it.

In their worst aspect, the rules would set up a "secrets of state" classification under which government information—nobody can tell how much—could be withheld from federal court proceedings. Nor would these evidence restrictions apply solely to matters of national security and international relations. A vague "official information" category is included, enabling the government to keep secret a great many facts about its domestic operations.

Well, the country doesn't need an official secrets act, coming in the sheep's clothing of judicial reform, or in any other form for that matter. Another objectionable innovation in these rules is elimination of the privilege under which conversations between doctor and patient and husband and wife have been inadmissable. This is going too far, too fast, perhaps exceeding any authority Congress has given the Supreme Court to set judicial procedures.

So Congress now should sift all the provisions with a critical eye and delete some of them, while salvaging those better ones that would make the federal courts run more smoothly.

KENTUCKY CRIME COMMISSION AND THE PAY BOARD

Mr. COOK. Mr. President, today I would like to make known to my colleagues in the Senate the disposition of a case filed by the Kentucky Crime Commission before the Pay Board.

On June 30, 1972, the Kentucky Crime Commission filed a request for exemption or exception with the Pay Board in order to implement a 15-percent pay supplement to all local police in the Commonwealth of Kentucky who had participated in, an inservice program. Money for this program, entitled the Kentucky law enforcement foundation program fund, was channeled from two sources, the Kentucky general fund and safe streets funds, and a matching grant from the Omnibus Crime Control and Safe Streets Act, totaling $4.7 million. The Kentucky plan was approved by the Law Enforcement Assistance Administration in April 1972, and Jerris Leonard, Administrator of the LEAA, wrote to Donald Rumsfeld, urging the Cost of Living Council to approve the entire funding for the Commonwealth of Kentucky.

In order to participate in this program each local police unit must meet the standards which are:

First. Each police officer must be paid a minimum of $4,350 annually by a participating locality;

Second. All officers hired on or after July 1, 1972, must have attained a high school degree or its equivalency;

Third. All officers hired on or after July 1, 1972, must successfully complete a minimum basic training course of 400 hours;

Fourth. All officers, whether employed before or after July 1, 1972, must successfully complete a minimum in-service training course of 40 hours each year;

Fifth. Each police department must comply with all applicable statutes governing local police including the transmission of data to the Bureau of Criminal Information and Statistics; and,

Sixth. All departments must comply with reasonable rules and regulations, appropriate to the size and location of the department, issued by the Kentucky Crime Commission to facilitate the administration of the fund and further the purpose of the act.

I was notified by the Kentucky Crime Commission that they had filed for exemption or exception with the Pay Board and on September 27, 1972, I wrote to Robert Tiernan, Executive Director of the Pay Board, urging their favorable consideration of the application on the basis of three provisions contained in the Pay Board regulations:

First. Section 201.11(2) where the employees are considered to be essential to the efficient operations of the employer, wages and salaries may be increased exceeding the standard in order to attract or retain these employees;

Second. Section 201.11(9)(D) states that the Board in reviewing new contracts and pay practices "shall consider such factors as are necessary to promote improvement in the quality of governmental service."

Third. Section 201.57(k) states that the Board can consider exceptions or exemptions where "new or revised job classifications" exist.

It is my opinion that the Kentucky Crime Commission was eligible for exemption or exception under all three of these Pay Board provisions.

The Pay Board had this case before it for almost 8 months. Upon numerous and frequent inquiries from my office, I was informed that the case would necessarily proceed slowly through their bureaucratic process since it was a precedent-setting case. We patiently awaited their decision, believing that the matter was being thoroughly and deliberately reviewed.

At last, on February 7, 1973, the Pay Board rendered a reckless and ill-contrived decision and order which stated that each appropriate employee unit—of which there are 187—may receive a 5.5-percent increase in wages and salaries for the second control year if their average annual compensation was more than $8,120, but less than $9,013. Those employee units falling below the $8,120 figure could receive an additional 5.5 percent; and those employee units above the annual average compensation level of $9,013 could receive nothing.

This was quite a blow to the Louisville and Jefferson County police unit, comprising half of all eligible policemen in the State, since it was above the $9,013 level and therefore could receive no incentive supplement. In addition, the decision and order left in question some other local units in urban areas who might also be above the $9,013 figure.

For the RECORD I would like to state that Louisville has 22 percent of the State's population, 41 percent of the crime, and the Pay Board order eliminated distribution of 43 percent of the appropriated funds.

Not only do I question the wisdom of the decision; the workability of the decision; the anti-inflationary value of the decision; the constitutionality of the decision; the arbitrariness of the decision; but I would like to point out that the decision directly conflicts with the Kentucky State Legislature's intent stated in section 15,450 of the Kentucky revised statutes creating the Kentucky law enforcement program fund that payments be made at the same rate to all participating law enforcement agencies throughout the Commonwealth. Now the Governor is faced with the dilemma of violating the Pay Board decision and order or the intent of the Kentucky law. The Governor has determined that, if necessary, he will violate the Pay Board order, not Kentucky State law.

In the final version of the Economic Stabilization Act the intent of the Congress that any program receiving financial assistance from the U.S. Government shall not be encumbered by the Pay Board is expressed in section 203(F) where it states:

> The authority conferred by this section shall not be exercised to preclude the payment of any increase in wages . . . (2) required in order to comply with wage determinations made by any agency in the executive branch of the Government pursuant to law for work (A) performed under contracts with, or to be performed with financial assistance from, the United States or the District of Columbia, or any agency or instrumentality thereof . . .

Kentucky is essentially rural in character, but we do have problems in the urban areas with crime. In a poll recently conducted in Jefferson County—where, I remind you, the Pay Board will allow no payments—it was learned that citizens in that area rank police protection as their No. 1 government service priority. But this is not just indicative of the Louisville and Jefferson County area, "We support our local police" bumper stickers are on thousands of cars throughout the State. Not only do Kentuckians want police protection, but they have also communicated to their State representatives that they want money to upgrade those police units to fight crime. The Kentucky Crime Commission is trying to implement constituent intent supported by Federal funds and approval, but it is being directly thwarted by the Pay Board.

I do not have to explain to Members of the Congress and the public that crime prevention is a high-ranking priority among all citizens in this country. And I do not have to tell you that increased quality in enforcement of the law would significantly deter the growth of crime. I have often stated that the laws are on the books but what is needed is better enforcement. This cannot be achieved by merely stating it. New techniques must be developed, better training and higher educational standards must be established for policemen. As Jerris Leonard so succinctly stated in his letter to Director Rumsfeld:

> Programs have been developed to attract persons to law enforcement work by offering educational opportunity as part of the early years of service. One form of encouragement being effectively employed in some jurisdictions is an incentive pay plan that is linked to educational achievement, salaries, under this plan, are increased as college work is completed . . .
>
> It is LEAA's belief that the social responsibilities borne by law enforcement officials and the high order of skills and intelligence necessary to perform them underscores society's obligation to provide its law enforcement personnel with the requisite education and training to perform their functions.
>
> In the past, a policeman's role could be described as protecting life and property and keeping the peace. Today law enforcement includes the responsibility to prevent crime and disorder as well as the protection of life and property.

I would add to this that in order to keep well-trained and qualified policemen, it is necessary to provide them with incentive salaries commensurate with their increased skills and performance.

How can the pay board, therefore, justify its decision as anti-inflationary? It would seem to me that training law enforcement officials to be better equipped to prevent crime is enormously less costly and inflationary than the court procedure costs and incarceration.

Recently Louisville reported a 9.8-percent decrease in reported crime, one of 83 cities to report such a decrease. The size of the decrease rated eighth among the 29 cities in Louisville's population group—250,000 to 500,000. Yet, this same law enforcement agency is totally deprived of any incentive benefits thanks to to decision rendered by the pay board.

The Kentucky Crime Commission filed a request for review. The appeal neatly outlined the effects of the pay board's decision which we considered unworkable. In order to make certain that the case would receive a thorough review and understanding, I met with two staff attorneys from the pay board in an attempt to familiarize them with our predicament. I explained how the Kentucky Crime Commission would like for the decision and order to be rewritten so that it would be workable and equitable. Furthermore, in response to their inquiry, I stated that the Kentucky Crime Commission would prefer that the case be reviwed by the Cost of Living Council since the pay board was scheduled to have only one final meeting before fading away into phase III. Since this meeting with the staff attorneys in my office was held on Friday and the last pay board meeting was due to be held on the following Wednesday, we were informed that there was little, if any, likelihood that the Pay Board would consider the Kentucky Crime Commission appeal. This pleased us since we appreciated the opportunity for a new and impartial panel to hear the case.

On Thursday, following the Wednesday Pay Board meeting, I was called to be advised that the Pay Board had considered the Kentucky Crime Commission appeal and had reaffirmed the original decision and order. I later learned that the Pay Board panel met for approximately 2½ hours at which time they conducted routine business and considered one case—that of the Kentucky Crime Commission.

Although the Kentucky Crime Commission had to wait 8 months for an original decision, they only had to wait

less than 1 week for an answer to their appeal, specifically made to the Cost of Living Council—not the Pay Board. Now, I would like to know what kind of efficiency this is? The original decision was made during phase III—after controls became voluntary—yet we were told to be patient for 8 months, because of the import and wide-range implications of the decision. When we made the same request of the Pay Board it was completely ignored. I think you will have to agree that the Pay Board most assuredly acts in whatever capricious manner it so intends.

It is not difficult for me now to understand where phase III was conceived. It was, no doubt, dreamed up by the Pay Board in one of its weekly meetings. Not only are the phase III guidelines vague, but it appears now that the 5.5-percent guidelines are as voluntary and irrelevant as anyone so chooses to treat them. The President has stated he wants to hold inflation down to 2.5 percent, but I certainly would like to know how this goal can be achieved given the phase III regulations.

With rent and lumber prices now soaring I wonder what the Cost of Living Council plans to do or say when everyone recognizes that phase III is merely a paper tiger to all but the construction, food, and health industries. These sectors have complained to me of discrimination. And rightly so. They are not the only ones responsible for inflation, and they, alone, cannot keep the inflation rate down to 2.5 percent.

It is my intention to strongly oppose extension of the Economic Stabilization Act. I can see no reason why the American taxpayer is shackled with the responsibility for supporting this bureaucratic foundation which is rendering it a great disservice in pretending to combat inflation. I see nothing but confusion and an attitude of indifference on the part of the Cost of Living Council. It is inconceivable to me that they really perceive or care about the good of the American people.

Further, I question their constitutional rights in interfering with the intent of State and local jurisdictions as well as the Congress of the United States. Our power has again been usurped.

I ask unanimous consent that a letter from the crime commission be printed in the RECORD.

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

CRIME COMMISSION,
Louisville, Ky., February 26, 1973.

Hon. WENDELL H. FORD,
Governor, Commonwealth of Kentucky, State Capitol Building, Frankfort, Ky.

DEAR GOVERNOR FORD: At the February 22, 1973 meeting of the Louisville and Jefferson County Crime Commission and the Louisville Regional Crime Council, the question of the pay incentive for local police officers and the decision of the Federal Pay Board was discussed. The Commission and Council unanimously passed the following statement:

"We resolve to support the legislation passed by the 1972 General Assembly which provided for minimum police training standards and salary supplements for police and we support the implementation of that legislation as soon as possible. We commend and support Governor Wendell Ford in his efforts to overturn the recent decision of the Federal Pay Board in order to insure the complete implementation of the legislation."

As is obvious by our resolution, we support your efforts to increase the pay of our local policemen. We want you to know that we are in agreement with your actions and will assist you in your efforts.

Sincerely,

STUART E. SPECKTER,
Chairman, Crime Commission.
JAMES M. CALDWELL,
Chairman, Crime Council.

THE GENOCIDE CONVENTION—WHY THE SENATE SHOULD REFUSE TO RATIFY IT

Mr. ERVIN. Mr. President, it would be extremely unwise for the Senate of the United States to ratify the Genocide Convention which was reported by the Senate Foreign Relations Committee on March 6, 1973.

HISTORY OF THE GENOCIDE CONVENTION

During the 1940's activists connected with the United Nations engaged in a strenuous effort to establish by treaties laws to supersede domestic laws of nations throughout the earth. The Genocide Convention represents one of these efforts. It originated in a resolution of the United Nations condemning genocide as a crime whether "committed on religious, racial, political, or any other grounds." When reduced to its final form it excluded genocide committed on "political" grounds because some of the parties to it did not wish to surrender even nominally their right to exterminate political groups hostile to their rulers. Under its provisions, individuals as well as persons exercising governmental power would be subject to trial and punishment for offenses which have always been regarded as matters falling within the domestic jurisdiction of the various nations.

The Genocide Convention was adopted by the General Assembly of the United Nations on December 10, 1948, and was submitted by President Harry S Truman to the Senate for its consideration on June 16, 1949. The Senate Foreign Relations Committee appointed a subcommittee composed of very able Senators, who conducted hearings in January and February 1950, and reported to the full committee that the United States should not ratify the convention in any event unless the Senate adopted four substantial understandings and one substantial declaration.

From the time of that report in 1950 until 1971, the Senate Foreign Relations Committee and the Senate itself by inaction refused to ratify this convention.

After 20 years of inaction, during the first session of the 92d Congress, the Foreign Relations Committee reported favorably on the convention. Again, by its inaction, the 92d Congress chose not to ratify the convention. This year the Foreign Relations Committee has tried to resurrect the convention, notwithstanding the fact that there has been no change of circumstances which would make what was unwise in 1950 and 1971 wise in 1973.

The only argument now advanced for ratification of this convention is that it would improve the image of the United States in the eyes of Russia and other totalitarian parties to the convention, which strange to say have repudiated by understanding and reservations many of the provisions of the convention.

For example, these nations refuse to be bound by article IX which subjects their actions under it to the jurisdiction of the International Court of Justice. Some of the proponents of ratification by the Senate advance the rather strange argument that the United States can safely ratify the convention because there is no effective way to enforce its provisions against the United States if the United States refuses to abide by them. I cannot buy this argument because I think that any nation which makes a contract in the form of a treaty should accept its obligations even in the event such obligations prove to be contrary to its own interest. Otherwise, why make treaties.

Before discussing the obligations which the United States would assume as the result of Senate ratification of the Genocide Convention, I wish to call attention to its salient provisions.

PROVISIONS OF THE GENOCIDE CONVENTION

By the Genocide Convention or treaty the contracting parties affirm in article I "that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish."

Articles II and III of the convention read:

Article II

In the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

Article III

The following acts shall be punishable:

(a) Genocide;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide;

(e) Complicity in genocide.

Article IV specifies that "persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals."

Article V obligates the contracting parties to enact the necessary legislation to give effect to the provisions of the convention and to provide effective penalties "for persons guilty of genocide or of any of the other acts enumerated in article III."

Article VI provides that "persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the nation in the territory of which the act was committed or by such international penal tribunal as may have jurisdiction

with respect to those contracting parties which shall have accepted its jurisdiction."

Article VII provides that the parties to the treaty pledge themselves in genocide cases to grant extradition in accordance with their laws and treaties. Article VIII provides that "any contracting party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III."

Article IX provides that "disputes between the Contracting Parties relating to the interpretation, application, or fulfillment of the present Convention—shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

This brings me to the considerations which ought to deter the Senate from ratifying the Genocide Convention. Time and space compel me to limit my statement to only the most substantial of them.

CONVENTION DISTORTS CONCEPT OF GENOCIDE

First, if the Senate should ratify the Genocide Convention, the United States would be obligated by it to prosecute and punish public officials and private citizens of our country for acts alien to the concept embodied in the term genocide.

The definition of genocide appears in article II which states that the term genocide embraces five specified acts "committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such." The convention definition of genocide is inconsistent with the real meaning of the term, which is "the systematic, planned annihilation of a racial, political, or cultural group." The word annihilation clearly contemplates the complete destruction or the complete wiping out of the designated group.

Yet, the convention definition covers the destruction either in whole or in part of members of a group embraced by it. This means that a public official or a private individual is to be subject to prosecution and punishment for genocide if he intentionally destroys a single member of one of the specified groups.

When it considered this convention in 1950, the subcommittee of the Committee on Foreign Relations took note of the fact that the convention distorts and perverts the entire concept embraced in the word "genocide," and for that reason stated that the Senate ought not to consider ratification of the convention unless it announced this understanding of its meaning:

> That the United States Government understands and construes the crime of genocide which it undertakes to punish in accordance with this convention, to mean the commission of any of the acts enumerated in article II of the convention, with the intent to destroy an entire national, ethnical, racial, or religious group within the territory of the United States, in such manner as to effect a substantial portion of the group concerned.

This distortion and perversion of the plain concept embraced in the word "genocide" represents an effort on the part of the drafters of the convention to make punishable either in the courts of an adherent to the treaty or in an international tribunal to be established under the terms of the treaty, all of the acts enumerated in articles II and III of the convention.

Since an intent to destroy a single person belonging to one of the four designated groups would subject an official or individual to punishment, the treaty would make virtually every person in any nation adhering to it a potential victim of genocide as the meaning of that term is distorted and perverted by the convention. This is true simply because virtually every person on earth belongs to one or more of the four groups designated.

This observation is made exceedingly plain by the fact that an ethnical group is a "social group within a cultural and social system that claims or is accorded special status on the basis of complex, often variable traits including religious, linguistic, ancestral, or physical characteristics."

In its March 6, 1973, Report, Executive Report No. 93–5, the Foreign Relations Committee proposes an understanding which, in effect, acknowledges this problem with the convention's language, but which certainly does not resolve it. Indeed, the understanding proposed by the committee in this connection increases the confusion as to the meaning of the convention.

DRASTIC IMPACT OF CONVENTION ON OUR SYSTEM OF GOVERNMENT

Second. Article II, section 2 of the Constitution provides that "the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Article VI of the Constitution provides that "the Constitution and the laws of the United States, which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

If the Senate should ratify the Genocide Convention, these constitutional provisions would automatically make the Convention the law of the land, put all of its self-executing provisions into immediate effect as such, and impose upon the United States the obligation to take whatever steps are necessary to make its non-self-executing provisions effective. This means that the provisions of the Genocide Convention would immediately supersede all State laws and practices inconsistent with them, and would nullify all provisions of all acts of Congress and prior treaties of the United States inconsistent with them.

While Congress could repeal provisions of the Genocide Convention by future legislation, the States would be bound by them as long as the Convention remained in effect. Moreover, the Genocide Convention would immediately require and authorize Congress to enact legislation implementing its provisions, even though such legislation were beyond the power of Congress in the absence of the Convention, and even though such legislation would deprive the States of the power to prosecute and punish in their courts acts condemned by articles II and III of the Convention.

Surely, the Senate should pause and ponder what the impact of the ratification of the Genocide Convention would have on our system of government.

It is noted that virtually all the other nations of the earth have no constitutional or legal principle similar to article VI of the Constitution of the United States making treaties "the supreme law of the land," and that for this reason treaties do not take effect as internal law in other nations unless their legislative branches of government adopt laws subsequent to their ratification giving them such effect.

Third. One of the most drastic impacts the ratification of the Genocide Convention would have upon our system of government is in the criminal field. If the Senate should ratify the Genocide Convention, the duty and the power to prosecute and punish criminal homicides, assaults and batteries, and kidnapings covered by categories (a), (b) and (e) of article II of the convention would be forthwith transferred from the States which have always had such duty and power in respect to these crimes to the Federal Government. To make this transfer of justification workable, Congress would be required to enact new laws laying down rules of procedure to govern the trial of these newly created Federal and international crimes. Pending the passage of such laws, our country would experience utter confusion in the administration of criminal justice in respect to homicides, assaults and batteries, and kidnapings.

Proponents of ratification may argue that many homicides, assaults and batteries, and kidnapings would not fall within the definition of genocide. This contention accentuates rather than minimizes the folly of ratifying the Genocide Convention.

As has been pointed out, virtually every person in America falls within one or more of the four groups designated in the Genocide Convention, and any offense denounced by the Genocide Convention against any one of them would ostensibly fall within the scope of the convention. The jurisdiction of the Federal courts under the Genocide Convention would not depend upon what the jury found in particular cases. It would depend upon the allegations made in the indictments or informations charging the offenses.

Consequently, we can reasonably expect that demands will be made that every homicide, every assault and battery inflicting serious injury, and every kidnaping shall be tried in a Federal court, or in an international court to be established pursuant to the convention. What this will do to increase the congestion in the already overburdened Federal courts of our land beggars description.

In the absence of ratification of the convention, demands were made that the United Nations investigate the slaying of

Black Panthers by police officers in 1970 on the ground that their slaying constituted genocide under article II(a), and that the United Nations investigate the action of the legislature of one State in respect to welfare benefits on the ground that the legislative action constituted genocide under article II(c).

I respectfully suggest that the Senate should pause and ponder whether it is desirable to ratify a convention which would necessitate a fundamental alteration in the way in which criminal justice has been administered in the United States ever since our country came into existence as a free republic.

When the subcommittee of the Senate Foreign Relations Committee considered the Genocide Convention in 1950, it clearly recognized that ratification of the convention would play havoc with our system of administering criminal justice in respect to domestic crimes made Federal and international crimes by articles II and III, and for this reason decided that the Senate should not ratify the convention in any event without making this declaration:

In giving its advice and consent to the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, the Senate of the United States of America does so considering this to be an exercise of the authority of the Federal Government to define and punish offenses against the law of nations, expressly conferred by article I, section 8, clause 10 of the U.S. Constitution, and consequently, the traditional jurisdiction of the several States of the Union with regard to crime is in no way abridged.

Confusion in the administration of criminal justice in respect to domestic crimes made Federal or international crimes by the Genocide Convention would not disappear with the enactment of legislation by Congress implementing the convention. The validity of this observation may be illustrated by taking a single crime, that of unlawful homicide. Under the Constitution of the United States, Congress does not have the power to make unlawful homicides generally Federal or international crimes. If ratified by the Senate, the Genocide Convention would give Congress this power in respect to homicides constituting genocide under the definition contained in the convention. Jurisdiction to prosecute and punish other unlawful homicides would remain in the State.

The only distinction between unlawful homicides remaining in the jurisdiction of the States and unlawful homicides transferred by the Genocide Convention and Acts of Congress implementing it to the Federal Government would depend upon whether the homicide is committed with genocidal intent. As a consequence, every unlawful homicide would apparently be within the jurisdiction of both the Federal and the State government insofar as the external circumstances of the slaying are concerned.

Hence, either State or Federal courts could assert jurisdiction in respect to virtually all homicides, and an acquittal of the charge in one court would not bar a second prosecution based on the same facts in the other court. This being true, a person could be twice placed in jeopardy for the same offense.

The power of a Federal court to try a person for a homicide on the ground that it constitutes genocide depends upon the allegations of the indictment and not upon the ultimate finding of the jury. On a trial in the Federal court, the jury would be compelled to acquit the accused of genocide unless it found that he acted with the requisite genicodal intent, no matter how atrocious the circumstances attending the homicide otherwise might be. In such a case, the accused would go unwhipped of justice unless he was placed upon trial a second time in a State court.

The Senate should be slow to ratify any convention which would make such confusion in the administration of criminal justice in cases of this kind.

MEANING OF CONVENTION SHROUDED IN UNCERTAINTY

Fourth. If the Senate should ratify the Genocide Convention, it would place obligations upon the United States to prosecute and punish as genocides acts whose nature the convention fails to disclose and to take steps whose nature the convention fails to reveal.

If the convention is ratified, article II(b) would impose upon the United States the duty to prevent and to prosecute and punish public officials and individuals who cause "mental harm to members" of any one of the four groups named in the convention. What mental harm means in this context is totally incomprehensible, and what psychological acts or omissions are made punishable in this context are left in obscurity. When the Subcommittee of the Senate Foreign Relations Committee considered the Genocide Convention in 1950, it reached the conclusion that the Senate ought not to ratify the Genocide Convention in any event unless it expressed this understanding:

That the United States Government understands and construes the words "mental harm" appearing in article II of this Convention to mean permanent physical injury to mental faculties.

In its report of March 6, 1973, the Foreign Relations Committee proposed an understanding to the convention in language almost exactly like and with the same apparent meaning as the subcommittee's language of 1950. Even this language does not reduce to reasonable certainty the meaning of "mental harm to members."

If the convention is ratified, article II(c) would impose upon the United States the duty to prevent and to prosecute and punish anyone who deliberately inflicts "on the group conditions of life calculated to bring about its physical destruction in whole or in part." What this means, no mind can fathom. Does it mean that a State or county official who refuses to give to a member of one of the four groups designated in the convention the amount of welfare benefits deemed desirable is to be punished or prosecuted for genocide? Does it mean that the Court of International Justice shall have power under article IX to adjudge that Congress or a State legislature which does not make available to members of one of the four groups what the Court deems to be adequate welfare benefits has violated the convention?

If the convention is ratified, article III(c) makes any official or individual in our land punishable for "direct and public incitement to commit genocide." What does this mean? Does it mean that the convention undertakes to make a Senator or a Congressman punishable for genocide if he makes a speech outside of the Chamber of his respective House in which he justifies the action of Arabs in killing Jews, or the action of Jews killing Arabs? Does it undertake to deprive public officials and citizens of America of the right to freedom of speech with respect to matters falling within the terms of the Genocide Convention?

If anyone believes that the first amendment invalidates my apprehension on this score, let him read and ponder *Fox* v. *Washington*, 236 U.S. 273, and *Feiner* v. *New York*, 340 U.S. 315, as well as the majority and dissenting opinions in *Terminiello* v. *Chicago*, 337 U.S. 1.

If the convention is ratified, public officials and private citizens of our land will be subject to punishment in Federal courts or possibly in international penal tribunals to be established under article VI if they are guilty of the undefined offense designated as "complicity in genocide." What is "complicity in genocide?" The convention does not say.

When the subcommittee of the Senate Foreign Relations Committee considered the Convention in 1950, it recognized the vagueness and uncertainty of this proposed Federal and international crime, and recommended that the Senate should not ratify this Convention in any event without stating the following reservation:

That the United States Government understands and construes the words 'complicity in genocide' appearing in article II of this Convention to mean participation before and after the fact and aiding and abetting in the commission of the crime of genocide.

If the convention is ratified, article II would impose upon the United States the obligation to prevent and to punish as a crime under international law any act of genocide "whether committed in time of peace or in time of war," and article VIII would authorize any party to the convention to call on the United Nations to take such action against the United State under the charter of the United Nations it considers "appropriate for the prevention and suppression of acts of genocide, or any of the other acts enumerated in article III" occurring or likely to occur anywhere in the United States.

What actual obligation does article I impose upon the United States with respect to events occurring either in peace or in war in lands beyond the seas? Does it require the United States to go to war to prevent one nation from killing the nationals of another nation? The Convention does not say, but article IX places the power to determine this question in the International Court of Justice.

Does article VIII imply that the United States agrees that the United Nations is

to investigate or take action concerning the acts of public officials and individuals occurring within the borders of the United States? The convention does not say, but article IX leaves this determination to the International Court of Justice.

Able lawyers have expressed the fear that article VI imposes upon the Congress an implied commitment to support the creation of an international court for trials of American citizens for genocide. I find myself in complete harmony with their opposition to subjecting our citizens and other persons within our territorial jurisdiction to trial, conviction, and sentence for acts of genocide committed in the United States by an international penal tribunal where they would not be surrounded by the constitutional safeguards and legal rights accorded persons charged with a domestic crime.

CONVENTION MAKES SOLDIERS PUNISHABLE FOR SERVING THEIR COUNTRY IN COMBAT

Fifth. If the Senate should ratify the Genocide Convention, it would make American soldiers fighting under the flag of their country in foreign lands triable and punishable in foreign courts—even in courts of our warring enemy—for killing and seriously wounding members of the military forces of our warring enemy.

This is made indisputable by article I which provides that genocide is punishable under the convention whether it is committed in time of peace or in time of war, and by the fact that it contains no provision exempting soldiers engaged in combat from the coverage of the provisions of the convention. When soldiers kill or seriously wound members of a detachment of the military forces of a hostile nation, they certainly do so with intent to destroy, in whole or in part, a national group as such. Hence, their acts in combat fall clearly within the purview of the convention. In such cases, they are triable and punishable under article VI in the courts of the nation in whose territory their acts are committed, or in such an international penal tribunal "as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction."

These things being true, American soldiers who killed or seriously wounded North Vietnamese soldiers or members of the Vietcong, or South Vietnamese civilians in South Vietnam, might have been triable and punishable in courts sitting in South Vietnam, and American aviators who killed North Vietnamese soldiers or civilians in bombing raids upon targets in North Vietnam, and who were taken prisoner by the North Vietnamese, might have been triable and punishable in the courts of North Vietnam. No sophistry can erase this obvious interpretation of the Genocide Convention.

CONVENTION SUBORDINATES THE AMERICAN GOVERNMENT TO THE WORLD COURT

Sixth. If the Senate should ratify the Genocide Convention, article I would impose upon the President, as the Chief Executive of the United States, the duty to enforce both the provisions of the convention and any acts of Congress implementing them as the supreme law of the land.

Article V would obligate the Congress to enact legislation to give effect to all the provisions of the convention, and to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III, and article VI would obligate the Supreme Court of the United States and all inferior Federal courts created by Congress to interpret and apply all of the provisions of the convention and of the acts of Congress implementing it to cases coming before them under the terms of the convention and the acts of Congress implementing such terms.

Seventh. If the Senate should ratify the Genocide Convention, it would bring into play article IX which provides that disputes between the parties to the convention relating to the "interpretation, application, or fulfillment" of the convention "shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

Under this article the International Court of Justice would be empowered to decree that the President of the United States, as Chief Executive Officer of the United States, had interpreted and applied the provisions of the convention incorrectly and by so doing impose upon the President of the United States its notions as to how the convention should be interpreted and enforced; the power to adjudge that legislation enacted by Congress to give effect to the provisions of the convention was insufficient to fulfill the obligations imposed upon it by the convention; and the power to adjudge that the Supreme Court of the United States and Federal courts inferior to it had interpreted and applied the provisions of the convention incorrectly and by so doing require these tribunals to apply its notions as to how such provisions should be interpreted and applied to future cases coming before them.

When their attention is called to the drastic powers which the ratification of the Genocide Convention would bestow upon the International Court of Justice in respect to the President, the Congress, and the Supreme Court and other inferior Federal courts, the proponents of ratification assert that these agencies of the Government of the United States do not have to obey the rulings of the International Court of Justice if they deem that such ruling infringe upon the fundamental sovereignty of the United States. In so doing they ignore the solemn obligation assumed by the United States under article 94 of the charter of the United Nations which reads as follows:

> Each member of the United Nations undertakes to comply with the decisions of the International Court of Justice in any case to which it is a party.

The charter of the United Nations clearly contemplates that the United Nations will not interfere in the domestic affairs of any nation. The Genocide Convention goes a bow shot beyond the charter of the United Nations. It undertakes to regulate certain domestic affairs of the parties to it by converting what have always been domestic crimes into international crimes, and confers upon the International Court of Justice the vast powers set forth in article IX.

Consequently, if the Senate should ratify it, the Genocide Convention would render the Connally reservation, which was designed to prevent the International Court of Justice from exercising jurisdiction over any domestic affair of the United States, inapplicable to any of the matters covered by the convention, and would nullify the Vandenberg reservation to the jurisdiction of the International Court of Justice, which stipulates that American acceptance of compulsory jurisdiction of the Court shall not apply to "disputes arising under a multilateral treaty, unless all parties to the treaty affected by the decision are also parties to the case before the Court, or the United States specially agrees to jurisdiction."

What I have said does not militate against the good intentions of those who drafted the Genocide Convention, or those who favor its ratification. All of us are opposed to the systematic, planned annihilation of any national, ethnical, racial, or religious group. The existing laws of the United States and its several States are adequate to punish all of the physical acts of violence denounced by the Genocide Convention. Hence the Senate does not need to ratify the Genocide Convention in order to make these acts punishable as crimes if committed within the borders of our land.

But the Senate should not permit itself to be persuaded by the good intentions of the proponents of ratification to ratify a convention which would have such a tragic impact upon the system of government which has always existed in our land, and which for the first time in our history undertakes to make undefined psychological harms inflicted in some undefined manner Federal and international crimes.

The American Bar Association has twice urged the Senate to reject the Genocide Convention—once in 1949 and again in 1970.

In closing, I urge every Senator to read the booklet entitled "The Convention on the Prevention and Punishment of the Crime of Genocide" prepared by 36 of the most distinguished and patriotic lawyers of America.

When this convention was originally submitted to the Senate for ratification or rejection, one of Americas' ablest jurist, Orie L. Phillips, chief judge of the U.S. Court of Appeals for the 10th Circuit, wrote an article entitled "The Genocide Convention: Its Effect on Our Legal System," which was published in the American Bar Association Journal for August 1949. I ask unanimous consent that the article be printed in the RECORD. I commend it to all Senators for their reading.

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

THE GENOCIDE CONVENTION: ITS EFFECT ON OUR LEGAL SYSTEM

(By Orie L. Phillips)

(NOTE.—In this article, Judge Phillips makes a concise, precise, analysis of the terms of the proposed Convention on the

Prevention and Punishment of Genocide, and then discusses the effect of the Convention should it be consented to by the Senate. He points out that, under the Constitution, a treaty is the supreme law of the land, superior to any state constitution or statute, and any existing federal statute, and that once a treaty has been approved by the Senate no further action is necessary to make it part of the municipal law of every State, binding upon individuals. While recognizing our international responsibilities, Judge Phillips questions the wisdom of this Convention and offers a suggestion that will carry out our international obligations without subjecting individual Americans to trial and conviction by a court that may not operate under the safeguards to an accused accorded by our legal system.)

On June 16, 1949, the President transmitted to the Senate the Convention on Genocide with the request that the Senate give its advice and consent to its ratification.

By this Treaty the contracting parties confirm that genocide is "A crime under international law which they undertake to prevent and punish."

Articles II and III of the Convention read:

ARTICLE II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

ARTICLE III

The following acts shall be punishable:

(a) Genocide;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide;

(e) Complicity in genocide.

Article V obligates the contracting parties to enact the necessary legislation to give effect to the provisions of the Convention and to provide effective penalties "for persons guilty of genocide or any of the other acts enumerated in Article III."

Article VI provides that "person charged with genocide or any of the other acts enumerated in Article II shall be tried by a competent tribunal of the state" in which the act was committed, or by "such international penal tribunal as may have jurisdiction with respect to such contracting parties which shall have accepted its jurisdiction."

Article IX provides that disputes between the contracting parties relating to the "interpretation, application or fulfillment of the present convention," shall be submitted to the International Court of Justice at the request of any party to the dispute.

Thus, it will be seen that it is proposed by the action of the President, consented to by two-thirds of the Senators present [1] when Senate action is taken, to define certain acts, which have traditionally been regarded as domestic crimes, as international crimes and to obligate the United States to provide for their punishment and for the trial of persons accused thereof either in our domestic courts or in an international tribunal.

Treaty-making power is reviewed

It would seem appropriate, therefore, to review the treaty-making power.

Section 2 of Article II of the United States Constitution authorizes the President by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur.

The power is not one granted by the states. Neither did the powers of external sovereignty depend on the affirmative grants of the Constitution. If they had not been mentioned in the Constitution, they would have vested in the Federal Government as necessary concomitants of nationality. They embrace all the powers of government necessary to maintain an effective control of international relations.[2]

". . . the external powers of the United States are to be exercised without regard to state laws or policies." [3]

". . . the field which affects international relations is 'the one aspect of our government that from the first has been most generally conceded imperatively to demand broad national authority.' " [4]

The treaty-making power is not limited by any express provision in the Constitution. But it does not authorize what the Constitution forbids and its exercise must not be inconsistent with the nature of our Government and the relation between the states and the United States.[5]

The treaty-making power is not subject to the limitations imposed by the Constitution on the power of Congress to enact legislation, and treaties may be made which affect rights under the control of the states.[6]

Treaty is equivalent to statute

A treaty, entered into in accordance with constitutional requirements, to the extent that it is self-executing, has the force and effect of a legislative enactment and to all intents and purposes is the equivalent of an Act of Congress. In addition to being an international contract, it becomes municipal law of the United States and of each of the states, and the judges of every state are bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.[7]

In the event of a conflict between a treaty made in accordance with constitutional requirements and the provisions of a state constitution or a state statute, whether enacted prior or subsequently to the making of the treaty, the treaty will control.[8]

But, a treaty may be abrogated by the enactment of a subsequent federal statute which is clearly inconsistent therewith.[9]

Thus, it will be seen that it is proposed that we set out on a course, under a power without express limitation and of broad scope, to enact domestic criminal law, without any concurrence by the House of Representatives, the body traditionally regarded as closest to the people.

Moreover, if the offenses involved should be regarded as international in character by Section 8 of Article I of the United States Constitution, Congress has the power "to define and punish . . . offenses against the law of nations."

Convention would become supreme law of land

Since the Convention in most respects is self-executing, in those respects, on ratification, it would become the supreme law of the land. That would not be true as to any other contracting party except France and a few other states. Even if non-self-executing, the obligation to implement the Treaty by legislation is as binding as the Treaty itself.

It is one of our fundamental concepts that a legislative body, in the exercise of its power to declare what constitutes a crime, must define it so as to inform persons subject thereto, with reasonable precision, what it intends to prohibit so they may have a certain and understandable rule of conduct and know what it is their duty to avoid. "A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law." [10]

Do the definitions in Articles II and III of the Convention meet that test?

What is a part of a national, ethnical, racial or religious group—one member, two members, how many?

If an act was done with intent to destroy two members of a group, although actuated by no malice toward the group as such, would that be genocide?

Would it not be more accurate and desirable if the prerequisite intent was defined as an act committed with intent to injure one of the enumerated groups as such, so as to make it clear the act must be directed toward the group as such and not merely at an individual member or members thereof?

What is meant by mental harm?

Does not complicity mean the act of an accessory, or to aid, abet, assist, or incite genocide?

A person accused of an offense defined by the Convention, if tried by an international penal tribunal, would not be surrounded by the safeguards we accord persons charged with domestic crimes.

Should we ratify Convention with reservations?

In the event we ratify the Convention, should we, by reservation, expressly provide that citizens of the United States and persons within the territorial jurisdiction of the United States, charged with an offense defined in the Convention will be subject to trial and sentence only by a competent judicial tribunal of, and sitting within, the United States, vested with jurisdiction over such offense by federal legislation; that a citizen or other person so charged shall be presumed to be innocent until his guilt has been established by lawful evidence beyond a reasonable doubt; that a citizen or other person so charged shall be protected by all the safeguards embraced within the Constitution of the United States, including the rights guaranteed by the Fourth, Fifth, Sixth, and Eighth Amendments to the Constitution of the United States, to an accused charged with a domestic crime; and that such citizen or other person shall not be subject to be charged, tried, or sentenced by any international penal tribunal? Of course, no international penal tribunal has yet been created, and the advice and consent of the Senate would be necessary to subject our citizens to the jurisdiction of such a tribunal should it be created. But should we not endeavor to close the door to the giving of that advice and consent in the future?

Although the United Nations Charter provides that nothing therein contained shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state, since our representatives have participated in the drafting and approving of the Genocide Convention, if it should thereafter be ratified by the United States, would the matters embraced in such Convention be thereby with drawn from our domestic jurisdiction?

Should we agree to submit to the International Court of Justice a dispute as to the interpretation, application, or fulfillment of the Convention by us? Suppose a citizen of the United States was charged with one of the offenses defined in the Convention—the group involved being an alien racial group—and tried in a competent tribunal in the United States, and our domestic courts, including the Supreme Court of the United States, should hold the act did not constitute an offense under the Convention. Could the state, of which the alien group were subjects, seek a review as to the interpretation of the treaty in the International Court of Justice? If it could not seek a direct review, could it seek an interpretation by the International Court which would be binding on our domestic courts in the future?

Footnotes at end of article.

Should we obligate the United States to undertake to prevent and punish genocide in other states? Such seems to be the import of Article I of the Convention.

I assume that no one will deny that the acts defined in the Convention as offenses are abhorrent and the purpose to prevent them wholly commendable. The question is as to the method and means to attain that end.

If genocide and kindred offenses defined in the treaty are in fact international crimes, would not the wise course be to enact domestic legislation under Section 8, Clause 10, Article I of the Constitution of the United States, defining such offenses, and providing for the trial and punishment of persons committing such offenses, in our own domestic courts, where the accused will be guaranteed his constitutional rights and accorded due process under our concept of that phrase? We would thus set our own house in order, would offer the same protection to the accused as one charged with any domestic crime, and would reserve to our own courts the final determination of questions as to the interpretation of the penal statute. To agree, by international convention, to so define, try, and punish persons who commit the offenses which the treaty undertakes to define, would seem to me to wholly fulfill our international obligation, and would avoid many serious questions with respect to the incipient effects of ratification of the Convention on our constitutional and legal system and questions of policy which will arise on a consideration of concurrence by the Senate in the proposed Convention.

FOOTNOTES

[1] See Art. II, § 2 United States Constitution.

[2] *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 304, 315–318.

[3] *United States* v. *Belmont*, 301 U.S. 324, 331.

[4] *United States* v. *Pink*, 315 U.S. 203, 232.

[5] *Asakura* v. *Seattle*, 265 U.S. 332, 341; *Holden* v. *Joy*, 84 U.S. 211, 243; *Geofroy* v. *Riggs* 133, U.S. 258 267.

[6] *Missouri* v. *Holland*, 252 U.S. 416, 432.

[7] See *Valentine* v. *Neidecker*, 299 U.S. 5, 10; *Whitney* v. *Robertson*, 124 U.S. 190, 194.

[8] *Santovincenzo* v. *Egan*, 284 U.S. 30, 40; *Nielsen* v. *Johnson*, 279 U.S. 47, 52.

[9] *Whitney* v. *Robertson*, 124 U.S. 190, 195; *Botiller* v. *Dominguez*, 130 U.S. 288, 247; 52 *Am. Jur. Treaties*, 818 § 21; Note, 134, *A.L.R.* 885.

[10] *Connally* v. *General Const. Co.*, 269 U.S. 385, 391.

AN INTERNATIONAL SEC

Mr. SAXBE. Mr. President, Robert L. Vesco recently went on nationwide Costa Rican television and radio to respond to the variety of charges which have been leveled at him over the past several months from throughout the world. He then announced he was leaving Costa Rica.

These charges include indictment in Switzerland and a pending trial in the United States for diverting funds from the International Overseas Services, a complex of mutual funds, for alleged personal gain in Costa Rica and other developing countries. Vesco did not comment on the pending Securities and Exchange allegations or the criminal investigations of his operations in the State of New York. He said he had selected Costa Rica as a place for investment because the country needs capital to create employment and to improve the living standards in various sectors. Vesco justified his direction of mutual funds to underdeveloped countries, specifically Costa Rica, because these countries offer better growth potential. In short, Vesco defended his diversion of mutual assets and capital to developing countries because the financial establishment would not make these investments.

Further, Vesco flaunted the fact that he is exempt from prosecution because security laws cannot be enforced internationally. He relied on the fact that there is no multinational procedure to protect investors from highly questionable if not illegal diversion of their money. Vesco stated that he had invested about $25 million in Costa Rica and intends to increase that amount to $150 million.

I am dismayed at each new adventure of the management of the IOS and related funds. Vesco and his predecessors, especially Mr. McAlpin, appear to be taking funds invested by small investors in many countries and diverting them to their own personal gain. While pleading that he has the best interest of his investors at heart, Vesco appears to be trading solid U.S. and other multinational securities for overvalued equities in banks and companies of his own design. Other Costa Rican nationals report that Vesco is buying heavily into business and land companies in that country. However, it is difficult to determine where and how much, because of the structure of Costa Rican corporate law which allows business principals to remain anonymous.

This is not the first case of questionable management of mutual funds, nor will it be the last unless steps are taken by the international business circles and the world community of governments. We have experienced the struggle for control of International Overseas Services and Vesco's financial shenanigans since early in 1971. Now he is using fund assets with complete indiscretion and justifying his actions on the grounds that no country can exercise its securities law if he moves fast enough.

For this reason, I applaud the action taken by the Security and Exchange Commission against Vesco and the numerous other defendants involved in raising money from small, honest investors and funneling it into projects that will provide maximum personal gain for the fund managers. Vesco's actions are a repugnant breach of his fiduciary relationship to the investors of the various IOS funds. I am hopeful that the SEC action against him will succeed in stopping the apparent looting of the fund assets he controlled or continues to administer.

Subsequently, I am optimistic that other actions will force return of any misappropriated funds. However, international attention must be given to this problem and I ask that my colleagues give serious consideration to the formation of legislation to expand the operation of the Security and Exchange Commission by setting up ground rules for an international conference or convention to deal with multinational stock and investment fraud.

NATIONWIDE REGISTRATION PROCEDURE FOR FEDERAL ELECTIONS

Mr. McGEE. Mr. President, the New York Times on Friday endorsed the proposal I have forwarded to establish a simple, uniform registration procedure nationwide for Federal elections. This proposal is embodied in S. 352, which bears cosponsorship from both sides of the aisle. The aim of the legislation is to open the path to the voting booth for the millions of Americans who were foreclosed from casting a ballot last election day because of antique registration requirements and procedures.

As the Times' editorial correctly states:

The United States is the only major country in the world which places the responsibility of registration entirely on the citizen.

One result has been that as recently as last November 7, when the Nation chose its leadership for the next 4 years, only 55 percent of the eligible citizenry voted. Compared to voter participation in other free nations that is a dismal record.

Mr. President, the Committee on Post Office and Civil Service will complete its hearing record on the issue of voter registration legislation on Friday of this week, taking testimony from a spokesman for the administration and from others knowledgeable in the field. We hope to move at an early date to report a bill to the Senate for consideration. I ask unanimous consent that the New York Times editorial, "The Closed Booth," be printed in the RECORD.

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

THE CLOSED BOOTH

For millions of Americans, the voting booth is closed on Election Day. These are the people who failed to get their names on the registration lists. It is possible to criticize them for apathy or inattentiveness. But it is also possible to inquire why local governments make it so difficult to register.

The United States is the only major country in the world that places the responsibility of registration entirely on the citizen. In most free countries the government seeks out citizens as soon as they reach voting age and lists their names on the voting rolls as it does on the tax rolls. But most towns, cities and counties in this country make no such effort. Three-quarters of them have no Saturday or evening registration during most of the year. According to a League of Women Voters' study last year, many districts do not keep their registration offices open for additional hours even in the immediate pre-election period when interest is high.

Senator Gale McGee of Wyoming is the principal sponsor of a bill which would remedy this defect by introducing registration by postcard for Federal elections. A card would be delivered to every mailing address, and those wishing to register could do so by filling out the card and returning it. To encourage the states to adopt the same system for state and local elections, the bill would provide them with a small subsidy to defray registration expenses if they complied with the Federal plan.

The Senate a year ago narrowly defeated the original version of the McGee bill. By coincidence, the Supreme Court a week later achieved one of the purposes of that bill. It struck down state laws which required residency of six months or a year before a

person was eligible to register. Despite that gain, there is still need to adopt a simple, uniform registration procedure.

The only argument against registration by mail is the danger of fraud. But the real sources of fraud are corrupt election officials and politically motivated voter registrars. Where they exist, they have long shown that they can subvert the present cumbersome systems. Making life easier for the would-be voter would not affect the potential for fraud one way or the other. The McGee bill, which is expected to reach the floor later this month, deserves approval.

THOMAS G. MASARYK

Mr. PERCY. Mr. President, on the anniversary of the birth of Thomas G. Masaryk, it is appropriate that he should be remembered in the Halls of Congress because, as much as any man, he promoted and fostered the democratic ideal. In 1918 he established a strong democratic state in Czechoslovakia and won the admiration of free men everywhere.

Masaryk was not only the liberator of his country, but also a fervent foe of social injustice and discrimination. He was a leader who embodied the qualities of both a statesman and a philosopher. He has been described by one historian as "a towering figure, humane, a philosopher, a cosmopolitan in the best sense."

On the occasion of the anniversary of Masaryk's birth, the people of Czechoslovakia will recall the democratic state which he gave them, and will stop in their day's activities to praise his name.

For Americans and other free men, the memory of Thomas Masaryk is one of courage, truth, and devotion to freedom. We shall not forget him.

IN MEMORIAM: LYNDON BAINES JOHNSON, HARRY S TRUMAN

Mr. CRANSTON. Mr. President, the distinguished poet laureate of the State of California, Charles B. Garrigus, has memorialized the passing of two great Americans, Harry S Truman and Lyndon B. Johnson.

Mr. Garrigus' eloquent and heartfelt words lyrically honor the spirit and passions of two of our greatest Presidents.

I know my colleagues will want to share these panegyrics with me. Mr. President, I ask unanimous consent that they be printed at this point in the RECORD.

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

IN MEMORIAM: LYNDON BAINES JOHNSON

Beside the Pedernales cattle low
And Texas skies are filled with starlight's glow;
The winding waters have a ghostly gleam
As if the stars were floating in the stream.
This is the land where Lyndon Johnson grew.
Here live the people Lyndon Johnson knew.
This land—this people—shaped what he would do.

Friendly, proud, ambitious in this place,
He marked the course where he would run his race.
What most he sought was exercise of power,
To furnish civil rights as each man's dower.
He believed that what American must be
Would show the world how true democracy
Could guarantee all men their dignity.
This man whom strong ambition lifted high
Became conspicuous in his country's eye.
Proud, persuasive, pompous and profane,
He drove himself and others for our gain.
He knew his trust, his faith, and his desire
Would lift him to the heights where men aspire
To work for service rather than for hire.

Long hours of stress and anguish caused by war
Weakened a heart already strained too far.
He saw so well the twilight of his day,
But walked with cheerful courage all the way.
Remember Lyndon Johnson for his cause:
That each man suffers for his neighbor's flaws;
That men find freedom in respect for laws.

IN MEMORIAM: HARRY TRUMAN

Now by Missouri's lonely hickory hills,
A noble civil servant takes his rest.
He was an unpretentious, common man;
And yet his record ranks him with the best.

Salesman, captain, clerk and politician
Are terms that designate a simple man.
He was all of these, but so much more
That history proudly marks the course he ran.

Thrust by cruel chance into an awful task,
He ne'er complained nor wavered in his course.
His duty and his conscience were his guides;
His deep religious faith in God his force.

The common people saw themselves in him,
Saw faith and fear and doubt before the fact;
Saw anger, pride, and pleasure in the game,
Saw victory in the way he dared to act.

In centuries hence across the stage of time,
The world shall see great men pass in review—
Warriors, kings, the leaders of the earth—
Our Man from Independence walks there too.

TRIBUTE TO SENATOR BURDICK

Mr. HART. Mr. President, I wish to call the attention of my colleagues to a recent newspaper article recognizing the work which my able colleague, the junior Senator from North Dakota (Mr. BURDICK) has done on the Subcommittee on National Penitentiaries. This article deals with the serious problems of restoring to offenders the opportunity to achieve the gainful employment which is necessary for them to rehabilitate themselves.

As I said in the statement prepared for the opening of the hearings on this important legislation last February 3, 1972, in referring to rehabilitated former offenders—

For them a criminal record is not a deterrent to crime but a further deterrent to achieving the minimum level of economic security which is required to achieve a stable lawful pattern of behavior.

Earlier this week, William Raspberry, a newspaper columnist wrote of some of the work which has been done by this subcommittee and its chairman, Mr. BURDICK. I commend the article to the attention of my colleagues.

I ask unanimous consent that the article be printed at this point in the RECORD.

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

[From the Washington Post, Mar. 5, 1973]

BEHIND BARS ON THE OUTSIDE

(By William Raspberry)

One of the things that makes rehabilitation of persons convicted of crimes so difficult is the fact that nearly every sentence is, in effect, a life sentence.

The only variable, most of the time, is how much of the sentence is served in prison, and how much on the outside. Two years in the pen and the rest of your life with a record that makes it difficult for you to travel, vote, drive a car, build self-respect or get a decent job is, after all, a life sentence. The reminder comes every time you fill out a job application form that asks: Have you ever been convicted . . .?

It is a situation that Sen. Quentin N. Burdick (D-N.C.) proposes to do something about. Not much, maybe, but something.

He would make it possible for certain offenders to have their criminal records wiped clean, in effect making it legal for them to deny that such records exist.

Burdick, who is chairman of the national penitentiaries subcommittee of the Senate Judiciary Committee, expects to introduce soon an updated—and, one hopes, stronger—version of his 1971 offender rehabilitation bill, which he described at the time as "a small step." It would have made expungement available only to "the one-time offender convicted of a nonviolent offense."

That's small. In fact, the senator's remarks introducing the legislation were much more boldly to the point than the bill itself.

"When a judge pronounces sentence," he said, "it would seem that the law is saying to the offender: At some certain time, such as 10 years from now, you will be returned to society with your debt paid. You should then be ready to assume an honest and upright life. But this is a fiction, because the debt to society continues to be collected.

"I do not believe that the offender should forget what he has done; that is part of his rehabilitation. But there is a time when the records of his crime cease to have any value in determining his eligibility for employment, bonding, and licensing . . .

"It destroys his hope that he may again earn the opportunity for advancement in his job or profession. The ex-offender's failures destroy society's hopes that offenders can be rehabilitated, and becomes a self-fulfilling prophecy."

That's the speech. The bill was a good deal weaker. To begin with, it imposed a waiting period (three years for nonprison sentences, five years for those who have been incarcerated) between the time the "debt to society" is paid and application for expungement could be made. Burdick argues that the waiting period gives an ex-offender time to prove that he has been rehabilitated. But if the ability to find decent work is an essential part of rehabilitation, as Burdick also argues, then the waiting period is counterproductive, and comes at the worst possible time: upon release from prison.

The dilemma was built into the legislation for one key reason: Burdick believes that it is important that record expungement not be automatic and routine, that it require some effort and some positive showing of rehabilitation on the part of the applicant. For that, in Burdick's view, is also part of his rehabilitation.

"The possibility that a past criminal record can be nullified would be an incentive to an offender to try harder to live lawfully," he said. "It would be the light at the end of the tunnel. It would also be a stern reminder of how much he stands to lose by returning to crime."

There were other weaknesses in the proposal. For instance, it was limited only to first-offenders convicted of nonviolent crimes. The limit may have been guided less by logic than the need to satisfy those who resent any proposal to "mollycoddle" dangerous criminals.

Nor did it cover expungement of records of arrest not followed by conviction. Whatever the utility of conviction records, it is hard to see any value whatever in keeping records of arrests only. Such records ought to be automatically and routinely destroyed.

But for all the timidity of the original Burdick proposal and the likelihood that his new proposal won't go far enough, the senator is unmistakably headed in the right direction.

Burdick is fully aware of the pointlessness of introducing a thoroughgoing hardhitting, logical—and unpassable—bill. His approach is to weigh what is needed against what can be achieved.

And if he can get rid of even a few of those paper albatrosses that ex-offenders must wear, he will have achieved a good deal.

THE JAYCEES CENTER FOR IMPROVED CHILD NUTRITION

Mr. PERCY. Mr. President, I am extremely pleased that the U.S. Junior Chamber of Commerce has become an active participant in the war against hunger and malnutrition through the establishment of a Center for Improved Child Nutrition in Bloomington, Minn.

I am also pleased that the Jaycees have selected as their primary goal the expansion of the school lunch and school breakfast programs to the over 18,000 schools throughout the country which do not presently have such programs.

I believe their effort is an important one for the U.S. Jaycees to undertake and I want to commend Mr. Robert Benedict and Mr. David Jones, the director and associate director for Improved Child Nutrition, respectively, for the energy and dedication they have already shown in launching the center's activities.

I want to take note of and enthusiastically endorse the effort by the Jaycees to reach no-program schools in Chicago. The Jaycees are mobilizing the grassroots support which is the vital first step toward the implementation of school lunch and school breakfast programs in innercity schools which badly need them.

I am sure all Members of Congress join me in wishing the Jaycees every success in reaching no-program schools and in spreading the benefits of child nutrition programs to millions of youngsters who do not now enjoy them.

I ask unanimous consent to include in the RECORD at this point a letter of endorsement from President Nixon to Mr. Samuel D. Winer, president of the U.S. Jaycees, and a copy of the nation center's newsletter, "Common Sense."

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

THE WHITE HOUSE,
Washington, October 24, 1972.

Mr. SAMUEL D. WINER,
President, U.S. Jaycees,
Tulsa, Okla.

DEAR MR. WINER: It was a great pleasure to learn from your October 3 letter about the interest which the U.S. Jaycees have in the National School Lunch Program. I was especially gratified to know that members of my staff, program administrators in the Department of Agriculture, and officials from the Jaycees, including Chairman Benedict, have discussed the program thoroughly in connection with your plans to bring it to the attention of eligible schools which have not yet asked for such assistance.

Of course, the schools themselves must make the final decision about having this program. But the Jaycees, in helping the communities to have a full understanding about the lunch program, can play an effective role in assisting the schools in arriving at a decision which is right for them.

I am deeply encouraged by the willingness of the Jaycees to undertake this important educational project. It is a further example of the outstanding service the Jaycees have traditionally given our cities and towns across the nation, and you may be assured we will be pleased to work closely with you in this undertaking.

With my kindest good wishes,

Sincerely,

RICHARD M. NIXON.

[From Newsletter "Commonsense"]

JAYCEES ESTABLISH CENTER FOR IMPROVED CHILD NUTRITION

Following a national campaign last August and September to expand the School Food Program, the U.S. Jaycees have established a National Center for Improved Child Nutrition. The headquarters, located in Bloomington, Minnesota, will serve as the nerve center in the Jaycees effort to involve nearly 8.7 million children in over 18,000 "no-program" schools.

According to the Center's director, Robert Benedict, who led last fall's legislative campaign, "Studies have shown that it is far less costly and far more humane to deal with a child nutritionally during his formative years than to pay for him both medically and on welfare in later years."

As a result, the new office's primary goal is to individually locate and ascertain the needs of these no-program schools, providing them with up-to-date, concise information and assistance in overcoming the particular obstacles they now face.

"Many school officials just don't know what is available, what costs they will incur, or specifically how to get involved. Moreover, many do not understand how utterly imperative proper nutrition is to a child's physical, mental, and emotional development. This country can make no greater investment than to feed its children."

Recent studies have shown that where school food programs have been introduced into economically deprived areas, they have greatly aided in:

1. Drastically reducing the drop out rate
2. Increasing overall academic performance by up to a grade and a half
3. Substantially decreasing health care problems and costs

In the coming months, the Center will be formulating brochures, organizing statewide workshops, and adding its lobbying impact to the goal of better nutrition for America's children.

AMERICAN SCHOOL FOOD SERVICE APPLAUDS JAYCEES EFFORTS

True builders of peace

"Who are the real builders of peace? Certainly peace is more than merely the absence of war. It is more than merely uprooting the weeds of a garden and letting it lie fallow. Rather, it is the planting of that which will grow and bring forth fruit. It is the establishment of an environment where a child can progress as far as his God-given abilities will allow him. And in the building of a real "generation of peace", the true builders of peace are in the audience today."

So began Robert Benedict, National Jaycees Director for Improved Child Nutrition, as he addressed the American School Food Services, Seventh Annual Industry seminar. Speaking to the top members of the food industry and school food service, Benedict continued,

"Proper nutrition is the imperative prerequisite for a child's physical, mental and emotional development. America can make no greater investment than to feed her children."

Benedict, who in 1967 founded a nationwide organization (Teen Corps of America) which has provided millions of dollars worth of goods and services to America's poverty areas, and in 1972 wrote a book (*The Possible Dream*) about his years in the poverty areas, pointed out that,

"It is senseless to talk about improved education in poverty areas, without first talking about improved nutrition.

"And talking about improved medical or dental health, without first regarding improved nutrition, is about the same as putting a bandaid on a broken leg.

"If we really intend to build a 'generation of peace', we must provide our children with the necessary environment. It is the people in the business of feeding children who are the true builders of peace."

Dr. John Perryman, Executive Director of the 49,000 member American School Food Service Association, returned Benedict's visit and addressed the Jaycees Bosses Night in Minneapolis, Minnesota.

"I believe that the Jaycees will add a sizeable and highly significant force to the long and difficult battle of feeding America's children. We of the American School Food Service Association welcome your efforts in this highly crucial endeavor."

In an address met with great response, Perryman was given a standing ovation for 25 years of dedicated service in feeding America's children.

BREAKTHROUGH IN BALTIMORE

Officials from the Maryland School Food Program, the F.N.S., the U.S.D.A., as well as representatives from 30 non-public, "no-program" schools, welcomed the Jaycees into the fight to involve all children in School feeding programs. In his address to the Notre Dame College Child Nutrition Seminar, David Jones, Associate Director of the U.S. Jaycees Center for Improved Child Nutrition, explained that,

"We as Jaycees do not intend to tell non-public schools what your needs are, but rather to listen to your needs and do all we can to help you feed your students."

The seminar, which materialized through the imagination and hard work of Miss Eleanor Weagly, Coordinator of Maryland Food Service Programs, provided such school food service experts as Dewey Wood and Tom Heafy of the F.N.S. and Dave Overbagh of the U.S.D.A.

According to Overbagh, "One of the major road blocks facing these private schools is lack of information. I think the Jaycees can have a tremendous impact in this area through publicity and through direct contact with the schools. We must also convince these schools that government aid in the kitchen does not lead to government control in the classroom."

The seminar apparently did a superior job of informing and convincing. At the day's end, four schools were ready to begin programs and most of the other schools requested in-depth information as to how programs could be most economically instituted in their situations.

LEGISLATIVE HELP

The Chicago Jaycees were there in force at the Jaycees "mini-seminar", and were interested not only in seeing Chicago's children fed, but in viewing the national plan of action for reaching over eight million children in 18,000 "no-program" schools.

The Chicago Jaycees effort is led by a young "fireball" named Amy Nielson, who is already lining up allies for the nutritional campaign.

"If the real need is to increase the awareness of parents, the public, and politicians, as well as increasing our legislative impact, we are going to need other community groups beyond the Jaycees."

Nielson has already laid the ground work for a joining of efforts with the national P.T.A., and will be meeting with the P.T.A.'s national president later this month.

JAYCEES CENTER RECEIVES FUNDING

Convinced that the Jaycees effort to involve "no-program" schools will work, two organizations have already granted their economic support. The National Child Nutrition Project, headed by Mr. Lewis Straus, has contributed $20,000 for the period from March 1, 1973 to February 28, 1974.

"I fully believe the impact of the U.S. Jaycees entrance into this field will be felt heavily. They are a well respected national group that will swing a good deal of weight in locales across the country. Their approach of having local people talk to local people, about a local situation, is going to have impact."

The National Child Nutrition Project will also be providing the Jaycees effort with technical and resource assistance.

Also received to date is a $2,000 grant by the Eli Lilly Foundation, which has long been active in the fields of human improvement.

Yet, while the Jaycees effort is really gathering steam, it is still in need of funding. According to Jerry Kane, Publicity Director for the Center, "We still need from $50–60,000 to conduct the type of effort necessary to reach those eight million kids."

If you are interested in supporting the Jaycees effort, please write: Jerry Kane, U.S. Jaycees Center for Improved Child Nutrition, 8200 Humboldt Avenue, Bloomington, Minnesota 55431.

EXCITEMENT IN CHICAGO

With over 235 non-public schools unable to obtain access to the School Food Program, the Jaycees scheduled a "mini-seminar" in Chicago to see what could be done. Sponsored by Swift and Company, the all day session brought together some of the "big guns" in the nutrition field, including Dr. Paul LaChance of Rutgers University; Dr. John Murphy of Swift's Research and Development Center; and Jaycees personnel from throughout the country.

The main problem facing Chicago's non-public schools was outlined by a determined and capable Irishman named Jim O'Malley, "Just getting parents and residents to understand the program is the major obstacle we face. Once they understand it, they're sold."

A coordinated effort emerged from the seminar, designed to do just that. O'Malley, Director of School Lunch for the archdiocese of Chicago, and Robert Cobb of the South East Jaycees have set the wheels of progress in motion. O'Malley stated, "We're keying on 35 core-city schools that desperately need the program, and will work out to the peripheral 200 schools from there."

The Jaycee "Plan of Action" includes the door-to-door dissemination of circulars, placing posters in local stores, and securing major publicity about the positive effects of the program in local publications.

According to Robert Cobb, who is leading the effort for Chicago's South End Jaycees, "We fully understand the necessity of this program, and if it takes going door-to-door to tell about it, we've got the manpower and desire to do just that. We intend to see the children of Chicago fed."

SWIFT MAKES IT HAPPEN

The Jaycees Chicago "mini-seminar" was made possible through the kind effort of Swift and Company. Swift not only provided the excellent meeting facilities at their Research and Development Center, but a $2,000 grant to get the top nutritional and Jaycees personnel to the conference. The success of the Chicago effort is due in large part, to the concern and generosity of Swift and Company.

MICHIGAN AND MINNESOTA—NEXT TARGET AREA

Michigan goal—Over 600,000 children

A statewide Jaycees seminar is planned for late April, to involve over 600,000 children in Michigan's more than 1,000 "no-program" schools. Jaycee chapter presidents, local school personnel, and city mayors are being invited to an all day seminar that will:

1. Explain the program's value in investment terms. This will include specific information dealing with the relationship between introduction of the School Food Program and:

(a) Decreased drop-out rate, (b) Upgrading of academic achievement, (c) Reduction of health care problems and costs, (d) Increased federal revenue into a community, as well as increased employment.

Overall emphasis will be on the role of the School Food Program in producing a healthier, more educated citizenry, that is far more able to break the poverty cycle.

2. Provide testimonials of a teacher, principal, and school board member as to the value of the program to the students physical, mental and emotional performance.

3. Outline presentations on the numerous methods available for installing breakfast and lunch programs.

4. Distribute an information pocket, containing:

(a) Application form, (b) Simplified version of regulations and steps required for involvement.

5. Displays and presentations by food industries involved in breakfast, lunch systems.

The seminar will be preceded by a major mailing of Jaycees brochure and cover letter, as well as a passive publicity campaign.

Minnesota—Minneapolis' 19 schools

"It is tragic that these children should not have some type of feeding opportunity."

So stated Lowell C. Kruse, President of the Minneapolis Jaycees, in referring to Minneapolis' 19 "no-program" schools.

"This is especially detestable, since it was the Minneapolis chapter that sponsored the School Lunch Resolution to the U.S. Jaycees National Convention. It is highly important to clear up this problem in our own back yard."

The Jaycees nutritional center has organized a seminar for mid-March to do just that—feed American children whoever they might be.

BRING YOUR FAIR SHARE OF THE TAX DOLLAR HOME

Establish a school feeding program

The current federal reimbursement rates per meal served are as follows:

1. School lunch—8c.
2. Free school lunch—48c (national average).
3. School breakfast—5c.
4. Free school breakfast—15c.

Invest in the future of your community. Give your children the same advantage that children all over the nation enjoy. Feed students!

BUDGET ABDICATES FEDERAL ROLE

Mr. KENNEDY. Mr. President, the budget that has been submitted to the Congress by this administration represents a distorted view of the role of the National Government.

It seems to define national problems in the most limited way, in a way that does not include poverty, or pollution, or inadequate housing. And as Henry Steele Commager, one of our foremost historians, notes in an extremely persuasive analysis:

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.

And a recent editorial in the Washington Post emphasizes the same point that:

Federal intervention in the cities, as in other areas of national need, has had two aims: to provide resources which state and local governments lacked, and to focus public effort on serious problems which communities were not equipped or inclined to take on by themselves.

Mr. President, I believe the article by Henry Steele Commager, appearing in the March 4, New York Times and the editorial appearing March 7 in the Washington Post demonstrate why the Congress, in carrying out its own responsibilities, should reject the abdication of Federal responsibility contained within the proposed budget. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were 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 prisons in local and federal jurisdictions to realize that many of the values 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.

Poverty With Honor

President Nixon seems to be applying to the cities the strategy that Senator Aiken recommended years ago for Vietnam: He is declaring victory and withdrawing his troops. It can only be a matter of time before the President declares that he has achieved—what? Poverty with honor? "The hour of crisis has passed," Mr. Nixon proclaimed last weekend. "The ship of state is back on an even keel, and we can put behind us the fear of capsizing." In fact, this suggests that the administration's urban mission over the past four years was primarily to quiet the cities and put down the poor. It is a curious, aproach, heralding a retreat which is neither warranted nor wise.

Mr. Nixon's assessment of the state of the cities indicates that a few items might have been left out of his daily news summaries recently. "City governments are no longer on the verge of financial catastrophe," he stated. But there is Detroit, where the public schools are fast running out of funds. There is Philadelphia, where the school system has barely avoided collapse. There is Newark on the edge of bankruptcy. There is Gary, Indiana, where—according to a sobering analysis by Godfrey Hodgson and George Crile in Sunday's Outlook section—the white community which dominates th local economy is pulling out, leaving a largely black, poor population unable to cope. There is the massive concentration of physical decay and social devastation in New York's South Bronx, surveyed recently in the New York Times. There is the fear and desolation in the highest-crime blocks of Washington along 14th Street, which John Saar described in this newspaper on Sunday.

When Mr. Nixon's claims of progress are measured against these realities, the gains don't disappear—but they certainly shrink. The President emaphisized, for instance, that crime is dropping "in more than half of our major cities." To the extent that crime statistics relate to actual crime, any reduction is an accomplishment. But reported crime is still rising, though slowly, in the suburbs, and violence and fear still permeate too many urban neighborhoods. Similarly, the urban air may be getting cleaner, as Mr. Nixon announced, but in more than two dozen cities it is still so unhealthy that traffic controls will have to be imposed to meet the 1975 air quality standards. And to say that a poor child in a rat-ridden ghetto might be breathing slightly more easily these days is not to say that child has any better prospects for a decent home, a solid education, a productive job or a healthy life. To say that a working-class family in an aging neighborhood might be slightly less afraid is not to say that family has been relieved of its heavy tax burden or its sense of insecurity.

The situation in the cities is nowhere near as rosy as the President maintains. But the same token, federal programs for the cities, in the aggregate, have not been ruinous, as he pretends. Some of those programs were hastily conceived, many were under-funded, and most have come due for review. But his complaint about "high-cost, no-fault boondoggling" is wide of the mark. Indeed, most cities could not have achieved even limited gains since the "hour of crisis" unless some federal assistance had been timely and well-targeted.

It is worth recalling that federal intervention in the cities, as in other areas of national need, has had two aims: to provide resources which state and local governments lacked, and to focus public effort on serious problems which communities were not equipped or inclined to take on by themselves.

Mr. Nixon used to recognize this. The heart of his welfare reform program, now abandoned, was the national assumption of responsibility for the problem of poverty. Back in the early days of his first term, there were even a few attempts to shape an enlightened urban strategy, one which recognized that the underlying social and economic woes of central cities often require regional solutions.

But those constructive efforts have now been junked, along with everything else. Mr. Nixon seems to believe despite all the evidence to the contrary, that urban governments have been so enhanced, and urban problems somehow so reduced, that all the cities need from Washington is money—and less of that than before. It comes down to a prescription for self-reliance coupled with the elimination of those programs that could help people achieve it.

SAVE YOUR VISION WEEK

Mr. PERCY. Mr. President, March 4 through 10 was proclaimed by the President as Save Your Vision Week. Each of us in Congress, as well as the general public across the Nation, should consider the meaning of this phrase, for good vision is a blessing perhaps too often taken for granted.

Almost half the population of the United States has some sort of vision problem—the old, the very young, students, workers. Vision impairment respects no age barriers. The effect of these problems is by no means limited solely to the physical aspects of the individual's life. Faulty and uncorrected vision impairs the learning process for our children, makes inroads into the safe working conditions of our workers, contributes to the isolation which many of our elderly citizens feel today. And yet simple tests and simple screening procedures could detect eye conditions before they become major and insurmountable problems.

There have been significant developments in the field of vision care. Eye care practitioners have been specializing in areas affecting specific segments of the population—areas of learning disabilities and geriatric care, to mention two—and refining techniques to alleviate these problems. I have witnessed the fine work of the educational process in the field of vision care. The Illinois College of Optometry in Chicago is a fine representative of the professional health manpower training schools.

As we consider legislation in the health field—and many such bills have already been proposed in this session of Congress—it is incumbent on us to construct these programs so that the total health of the individual is insured, and this must include comprehensive vision care for all citizens of all ages.

Although the Presidentially proclaimed Save Your Vision Week is past, no American should feel that the need to have his vision checked by a professional on a regular basis has passed. A sense of responsibility for our own eye care must continue through every week of the year.

ON AID TO NORTH VIETNAM

Mr. CHURCH. Mr. President, as we all know, there has been a great deal of interest lately in President Nixon's proposal to give aid to North Vietnam.

In response to inquiries last month concerning my position on the subject, I issued a press release which set forth my feelings on the matter in some detail.

I ask unanimous consent, Mr. President, that the text of that press release be printed at this point in the Record.

There being no objection, the release was ordered to be printed in the Record, as follows:

News Release From Senator Frank Church

Washington, February 16.—Senator Frank Church said this week that he disagrees with President Nixon that foreign aid for the reconstruction of Indochina, including North Vietnam should be borne primarily by the American Government.

"After all," Church said, "there are international agencies equipped to do this task: The World Bank, The Asian Development Bank, the United Nations and the many voluntary relief organizations. Individual Americans who wish to contribute to the rebuilding of schools and hospitals, or wish to send food and clothing, are free to do so."

President Nixon has yet to send to Congress his request for money to finance a postwar reconstruction effort for Indochina, but he has mentioned, informally, a figure of around $7.5 billion over a five-year period, a substantial share of which would go to North Vietnam.

"If Congress makes the mistake of funding the assistance program that President Nixon requests," Church warned, "our government will remain directly and deeply involved in the political and economic affairs of Indochina, and thus much more likely to become ensnared in the war again should fighting be renewed."

"Whatever people who favored the war may think," Church continued, "I have no intention of saddling the American taxpayer with the reconstruction of North Vietnam. I would think that North Vietnam should look to China and Russia.

"As for other countries," Church said, "we would do well to remember that their governments asked us to intervene in their behalf. We substituted an American army for that of the South Vietnamese when Saigon's forces were on the verge of collapse, and we fought a war for them at a heavy loss in American lives. Under these circumstances, I can see no reason why it should be our sole responsibility to assume the cost of reconstruction."

"Furthermore," said the Senator, "it strikes me that this is no time for us to be increasing foreign aid anywhere. This week the papers carried the news that President Nixon has again devalued the dollar—for the second time in 14 months. Erosion of international confidence in the dollar is the direct result of our extravagant spending abroad. It can only be rectified by the sharp curtailment of foreign spending."

Last year, said Church, the United States sent abroad $30 billion more than it than it took in.

"No country, however rich, can long sustain so great a financial hemorrhage.

"In view of the President's actions in cutting back domestic spending," concluded Church, "one would think that Congress would resist his requests to increase foreign spending. It is apparent, however, that the Administration intends to press very hard to obtain its now foreign assistance package for Indochina, including North Vietnam. Only the strongest outcry from the public stands any chance of prevailing against it."

PETROLEUM SUPPLY—PRODUCTION SHORTAGES

Mr. DOLE. Mr. President, a resource and energy problem is developing in the United States which if allowed to go unattended with have serious effects throughout the Nation's entire economic structure.

At the moment only two segments of two industries are being directly hurt. I am particularly concerned because these are generally small, independent businesses which are the cornerstone of our free enterprise system, but I am also concerned, because the problem can in no way be confined or contained and is inevitably spreading to other parts of our economy and will eventually come to rest directly on the average citizen.

At this point the problem is twofold, but soon a third, then a fourth, and many more levels will become involved. Basically, it is a problem of too little crude oil being available in America today with the result that independent refiners are unable to produce enough refined petroleum products—particularly gasoline and diesel fuel—to supply the independent retailers who depend on them.

Unable to obtain supplies, these independent retailers—many of which are key suppliers of agricultural fuels—are being forced to curtail operations and in many cases may be forced out of business. Farmers, too, are feeling the impact of these shortages and are rapidly becoming aware of the possibility that they will not have sufficient fuels for their spring plowing.

If farmers cannot get fuel for their tractors to do their planting, they will be unable to meet the rising demand for their crops and products—with the certain outcome of severe dislocations in our rural economy and food prices being driven to new heights. Thus, it is not difficult to appreciate that this problem reaches far beyond one or two industries in a few parts of the country. It is truly a national problem of the most important degree.

The March 9 Washington Star-News carried a very clear and well-documented article by John Fialka concerning these supply-production shortages. I ask unanimous consent that the article be printed at this point in the RECORD.

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

PINCH HITS GAS PUMPS

(By John Fialka)

Rufus P. Limpp of Marshall, Mo., has a problem that the nation may become thoroughly familiar with before the end of the summer.

Although rumors and signs of an impending gasoline shortage have surfaced in Washington in recent weeks, Limpp and thousands of "private brand" gasoline station owners like him have been struggling with the shortage for as much as six months.

The struggle has now evolved, for Limpp, into what may be the free enterprise system's strangest new marketing philosophy.

There have been days now when Limpp has to close all nine of his "Mars" gasoline stations so they will not run out of gasoline. He has discovered that it is dangerous to pump his underground fuel tanks empty.

When they are emptied, they become buoyant and, when the ground is wet, they have a tendency to pop out of the ground, breaking fuel pipes and causing damage.

Limpp has considered pumping them full of water to hold them down. "If I did that, though, then I'd really be out of business, wouldn't I?" he explained to a reporter.

Instead, Limpp has been experimenting with one of his Kansas City stations, pricing its gasoline 4 cents higher than the station across the street. He doesn't sell much gas, but he keeps his tanks in the ground.

"The trouble is, we don't have any game plan for this kind of operation," he said.

According to statistics released by the American Petroleum Institute, the nation's "game plan" for fuel production is now seriously out of kilter. A fuel oil shortage, triggered in part by a natural gas shortage, necessitated a crash program by oil refiners to produce enough heating oil to last out the winter.

The emphasis on heating oil has now brought on the likelihood of a gasoline shortage. And diesel fuel, which is already in tight supply, may present a second shortage situation. Both shortages, if they are not prevented, are likely to cause consumers substantial amounts of money.

First, the gasoline shortage. There is a gap between this year's stocks of gasoline and the amount on hand last year at this time that amounts to around 20 million barrels. The gap now appears to be growing, although the demand for gasoline this spring and summer is expected to be up by at least 10 percent.

The first casualty of a major supply shortage will be the network of small oil companies which are not affiliated with major oil companies and, thus, have no crude or, usually, no refinery of their own. About 10 percent of the gasoline sold in the U.S. is believed to come from little stations such as Limpp's.

Limpp and other station owners have always depended on supplies of surplus gasoline, produced usually by major refiners in excess of their needs, supplies which are no longer there.

PRICE RISE SEEN

One authority on gasoline marketing, Dr. Fred C. Allvine, a professor at Georgia Institute of Technology, believes that the private brand stations, by underselling major, nationally advertised brands by 3 to 5 cents, now function as the main control on gasoline prices.

If the "supply squeeze" shuts down a large number of private brand stations, an event which Allvine believes is possible in the next few months, he expects major oil companies will raise the price of gasoline.

"Should this happen," he recently told the Cost of Living Council, "the public at large will pay a very high price."

It is difficult to tell how far the gasoline shortage has progressed since it was first noticed by private brand stations on the West Coast last fall.

A spokesman for the Society of Independent Gasoline Marketers of America (SIGMA), which has about 200 private brand members, said the group has been unable to come up with any firm numbers on the extent of the shortage. "It's a kind of fear thing. A lot of our members are still trying to deal with major suppliers. Some of them compete against each other. They are afraid to divulge competitive information."

"Let me put it this way," he added. "We don't have any members who aren't experiencing a shortage.

Hugh Lacy is vice president of Urich Oil Company, which owns 100 gas stations and wholesale gasoline to about 300 others on the West Coast.

Urich, the company that invented the self-service gas station shortly after World War II, has suffered from temporary spot shortages throughout the winter. Its main contract with a major gasoline supplier will end this month.

Urich will then have to "cut off" the 300 stations, Lacy believes, and begin to padlock some of its own.

"This whole damned industry is going down the drain," said Lacy. He believes the major oil companies are now waging a "two-pronged war" with the private branders. First, he explained, they cut off supply contracts; second, they have opened a number of new stations with strange sounding names that are now competing at the same price level with the private branders. Some examples are Exxon's "Alert," Mobil's "Sello," and Phillips' "Red Ball."

R. J. Peterson is board chairman of Martin Oil Co., which, at 200 stations is the biggest of the little oil companies operating in the Midwest.

Last winter, he noted, Martin contacted 53 separate oil refinery companies, including almost all of the major ones, and was able to locate only 2.1 million of the 7.6 million barrels of gasoline it needs this year.

Peterson believes that the federal government, by giving its primary attention to the needs of major, international oil companies, is to blame. "They're the ones who put us in this position."

When a private brand marketer runs out of gasoline, there is only one place he can go.

It is called the Oil Import Appeals Board, an obscure Interior Department agency located near an Arlington shopping center.

MORE LICENSES SOUGHT

According to Lewis Flagg III, who was recently removed as chairman of the three-man board, its usual business is giving crude oil import licenses or "tickets" to oil refiners who have experienced supply problems.

Out of the thousands of applicants who had appeared before the board up to last year, only six had ever asked to import gasoline. In January, there were more than 60 petitions for gasoline on Flagg's desk, all of them from private branders.

After giving several substantial import license awards to private brand companies, Flagg was summarily removed from his job in February. The Interior Department gave no reason for his removal. Sen. Thomas J. McIntyre, D-N.H., has charged that it was because Flagg attempted to help the oil industry's smaller businessmen to compete.

The board, however, continues to award import licenses to small companies to import gasoline.

Paul Castenguay, who has now closed 15 private brand stations of a chain of 25 he has operated in Minneapolis, believes that the licenses are virtually worthless to smaller companies.

The awards are so small that it would be impossible, he maintains, for such a company to charter a tanker and then physically bring the oil inland. And major companies, according to Castenguay and others, have refused to trade their product for import tickets.

"I might as well burn the tickets," said Castenguay, referring to a recent award to him by the board.

What do major oil companies think of the situation? A marketing expert for one of them, who asked that his name not be used, put it this way.

"They (the private branders) have always been yelling. Perhaps this year they have something to yell about. We are all having problems and when we're short we have to take care of our own stations first.

"We used to carry these people by keeping our refineries full and selling the excess. Now there is no excess. The energy picnic is over," he added.

HARD TO IMPORT

Unlike crude oil, which has been brought into this country in huge quantities, gasoline may be difficult to import in substantial amounts. European refineries have traditionally concentrated on the heating oil market and the relatively small supplies of gasoline they do produce are frequently below the octane rating necessary to operate the high compression engine of the American car.

Short of gasoline rationing, a contingency which the White House is now studying, the most repeated solution to the problem is to build more refineries.

There are no new refineries being planned in the United States. Rawleigh Warner Jr., board chairman of Mobil, which opened the most recent new refinery at Joliet, Ill., in January, said that major companies are no longer willing to take on the repeated battles with environmentalists and mounting labor costs involved with refinery site location and construction.

Nevertheless, he told the Cost of Living Council, the U.S. will not catch up with its fuel problems unless it finds a way to build five medium-sized refineries each year "from now to the end of the decade."

Many government experts agree with Warner and believe that the federal government will soon have to provide some form of incentive for refinery construction.

REFINERY IDLED

However, to the residents of Cushing, Okla., (pop. 8,500) Warner's argument might sound strange. The town's major industry, a relatively modern refinery, capable of processing 19,000 barrels of petroleum a day, stands idle.

On Feb. 7, the refinery, owned by Midland Cooperative, shut down. It had run out of crude oil. According to Forrest S. Fuqua, its manager, Midland decided to stage a permature overhaul of equipment, rather than lay off the refinery's work force of 165 men.

Next week the overhaul will end. Neither the federal Office of Emergency Preparedness (OEP), the state of Oklahoma, nor any other governmental agencies working on the problem apparatus has been able to persuade the major oil companies that control the crude oil in the fields near Cushing to part with any.

So far, to allow Midland to participate in the nation's Oil Import Program, the Interior Department has issued Midland import licenses for over 2½ million barrels of crude oil.

In the past, the licenses have been valuable. Midland, like many small interior refineries who do not have the capacity to import oil, has always traded its licenses to major oil companies for domestic crude.

"All of a sudden, bang, it doesn't work anymore and here we are sitting high and dry," said Fuqua.

Thus, at a time of acute fuel shortage in the upper Midwest, Midland, which supplies fuel to over 200,000 farm families, is out of business.

And Midland is not alone. The Interior Department recently studied a sample of eleven independent refineries in the Midwest and found eight of them running well below capacity. Five of them have had to cut sales of diesel oil.

The problem, according to an Interior memorandum, was that the "majors (are) not willing to exchange import tickets (licenses) because: a. they are busy utilizing their own tickets first; b. they have no more domestic crude to offer for tickets."

Whatever the reason, the problem is serious enough to draw Agriculture Secretary Earl L. Butz into the fuel shortage problem.

Agriculture's problem is that the Nixon administration's massive attempt to reorient the nation's farmers to production, rather than subsidy, will hinge on increased supplies of gasoline and especially diesel fuel to operate tractors this spring.

Farmers are authorized this year to increase the number of acres they till by up to 40 million acres. Much of the new land, according to an Agriculture report on the subject, has been in the Soil Bank for years and will require extensive plowing.

In addition, because of the wet, cold weather last fall, farmers in the corn belt fell 30 percent behind on their plowing and will have to catch up this spring.

Meanwhile, farmers have been switching from gasoline to diesel tractors in large numbers, according to the report. "These large tractors are heavy consumers of fuel," it adds.

According to Agriculture sources the diesel shortage has already begun to slow plowing in Northern Florida, where farmers have discovered that they will be held to last year's level of fuel purchases by oil dealers.

"The phenomenon is likely to spread northward along with the plowing season," said one source.

As the Nixon administration grasps for a quick way to repair the nation's faltering fuel supply system, it will discover a savage process at work in the market place. The weaker, smaller companies are drying up, leaving increasing shares of the market to the major oil companies.

Perhaps the most poignant portrait of this approaching upheaval is seen by an elderly owner of a private brand gasoline station in a southern state.

Although he has been selling cut-rate gasoline since the Depression, his sources of supply have all disappeared in recent months.

Still, he gets by with a little help from his friends. One of them drives a gasoline truck for a major oil company. Often, after midnight, the truck arrives and smuggles part of its precious cargo into the owner's tanks.

"I cut my teeth on a kerosene funnel," the owner told a reporter. "Ain't nobody going to drive me out of this business."

Mr. DOLE. Mr. President, in recent months I have been closely monitoring the energy situation in the Midwest, and the information that has been brought to my attention only serves to convince me further of the gravity and seriousness of the problem.

One hope of providing relief for the immediate problems is to increase the availability of existing crude oil supplies to independent refineries. I have urged this step in a letter to the President which was signed by the other members of the Kansas congressional delegation. I ask unanimous consent that the text of this letter be printed at this point in the RECORD.

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

WASHINGTON, D.C.,
February 27, 1973.

Hon. RICHARD M. NIXON,
The President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: After discussions and consultations with independent petroleum refiners in Kansas we are convinced that they are in a genuine crisis condition because of their inability to secure sufficient crude supplies. Several factors are involved but their present supply shortage stems primarily from the problem in trading import quota tickets with major oil companies.

A survey of seven independent refineries in Kansas reveals that they are falling short of their capacity by 32,000 barrels a day. This is an equivalent shortage of approximately 1,344,000 gallons of fuel a day.

Aside from the fact that these refineries are suffering efficiency losses because of being forced to operate at less than designed capacity this situation has serious consequences for all Kansas residents (and, we presume for all mid-continent residents). The situation appears to be especially critical for the agricultural sector. These refineries, particularly the cooperatives, (which also are encountering the greatest supply shortages), are major farm suppliers. If present trends continue our farmers will very likely be hit with a significant fuel shortage this spring and summer. This could have disastrous economic consequences for individual farmers and total food grain and feed grain production could be seriously reduced.

We realize that the nation as a whole faces a tight crude oil supply situation but we also believe that there are inequities in the distribution of existing supplies and that mid-continent refiners are experiencing particular inequities.

Therefore, we want to impress upon you the seriousness of the situation and to urge that you continue all efforts to secure immediate relief for these refineries. An increase in the supply of crude oil to the independent refineries of Kansas in the very near future is, we believe, absolutely essential.

Very truly yours,

—— ——.

Mr. DOLE. A reallocation of existing crude oil supplies is, however, not a complete short- or long-term answer. Many other questions involving increased supplies, more efficient use, and better planning must be taken into account as we deal with the broad outlines of a comprehensive national energy policy.

In the weeks and months ahead Congress will be faced with major decisions which will have wide-ranging effects far into the future. Wise answers and constructive solutions are essential, for a great deal is riding on the outcome of our efforts. Energy is the heart of our economy and must be kept strong, healthy, and capable of meeting the demands of the dynamic new forces which are at work in the world of today and tomorrow.

GENOCIDE: A CRIME AGAINST MANKIND

Mr. PROXMIRE. Mr. President, I again rise to continue my daily effort to win Senate ratification of the Genocide Convention. Today, I want to discuss the meaning of the word "genocide" and the significance of that crime throughout history.

The term "genocide"—formed from the roots geno- meaning race and -cide meaning to kill—is relatively new, but the phenomenon itself has been present since the beginning of man's history.

The history of the world offers us countless examples of wars of annihilation and extermination. From the genocide committed by the Assyrian hordes in Old Testament times to the massacre of 6 million Jews in this century, the heinous crime of genocide has been an ever-present occurrence.

Prof. Raphael Lemkin coined the word "genocide" in a report to the Fifth International Conference for the Unification of Penal Law in 1933. Lemkin maintained that this crime against humanity actually involved two separate acts of terror. The first was barbarity, which he said involved attacks against the lives or economic existence of individuals of a religious, racial, or social group. The second was vandalism, which involved the destruction of a group's cultural values.

Professor Lemkin continued his discussion of genocide by explaining that the crime had two phases. Phase one involved the destruction of the national pattern of an oppressed group. This was followed by the second phase which imposed the national pattern of the oppressor on the conquered group.

The scholarly work done by Lemkin and many other conscientious persons along with the painful memory of Hitler's atrocities against the Jews prompted the United Nations to act.

In 1946 that international body adopted the following resolution against genocide:

> Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; such denial of the right of existence shocks the conscience of mankind, results in great losses of humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations . . . the punishment of the crime of genocide is a matter of international concern.

In 1948 this resolution was followed by the drafting of the International Convention on the Prevention and Punishment of the Crime of Genocide. Since that time 75 nations have ratified this important international convention.

I urge my colleagues to show their opposition to the heinous crime of genocide and swiftly ratify the convention. The United States must go on record in firm and public opposition to this phenomenon which has afflicted mankind for so long.

HUD, CONSUMER PROTECTION, AND THE ECONOMIC SECURITY PROGRAM

Mr. PERCY. Mr. President, I have from time to time pointed out to my colleagues the need for a consumer-oriented Federal Housing Administration.

I have discussed several of my own proposals and I have taken note of a number of privately developed consumer protection plans of benefit to home buyers and homeowners.

One of these plans, the economic security program, was designed to protect the homeowner from loss of his property because of an inability to keep up mortgage payments due to involuntary unemployment. Under this plan, developed by Mr. Lawrence August, executive vice president of E.S.P.-Fidelity Corp., a one-time fee by the builder will provide up to 6 monthly mortgage payments over a 3-year period if an owner becomes unemployed.

HUD first said yes to the use of this plan in connection with FHA-insured mortgages, but subsequently, together with the Veterans' Administration, rejected it. Mr. August is now engaged in litigation with HUD as a result of this reversal of policy.

I believe my colleagues will be interested in an article by Mr. Robert Wright of the New York Times which succinctly describes the circumstances surrounding this particular indication by HUD that the Department is too insensitive to the needs of the ultimate housing consumer. I ask unanimous consent that the article by Mr. Wright entitled "From a Novel Idea Comes—Trouble" be printed in the RECORD.

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

FROM A NOVEL IDEA COMES—TROUBLE

(By Robert A. Wright)

LOS ANGELES.—In the depths of the 1970 recession, Lawrence August, a Los Angeles public-relations man, had an idea that he thought would help builders sell houses, protect consumers from the loss of their homes as a result of unemployment and save the Government money.

He also thought the idea would be very profitable, but today he is facing bankruptcy and the possible loss of his own home because his idea foundered in bureaucratic straits.

Mr. August's idea was to start a kind of private unemployment insurance. If a buyer became involuntarily unemployed during his first three years of home ownership, the insurance would meet the monthly mortgage payments for as long as six months. Builders would pay the insurance premiums and use the program as a sales tool.

Now, after a two-and-a-half-year struggle and a personal investment of $59,000, Mr. August has asked the Federal District Court here to enjoin the Government from administering him out of business. He has also filed a $25-million civil suit against the Department of Housing and Urban Development and the Veterans Administration, charging libel and inducement of breach of contract.

The 36-year-old Mr. August says he is pursuing his legal battle because he thinks he can win and reinstitute the program, but for other reasons as well.

"We're going to win the point that nonelected civil servants have to be responsive to public need," he says. "Unfortunately, they don't have to worry about losing their jobs because of conditions beyond their control. If they spend $108-million a year in repossessing homes, it's not their money. What do they care?"

Mr. August has compiled, along with his debt, a voluminous file of correspondence with bureaucrats, and it presents an interesting insight into the workings of Government and the real estate business.

When Mr. August conceived his idea, many developers were finding buyer resistance because of the recession. Unemployment was mounting throughout the nation, and prospective home buyers hesitated to make long-term commitments, fearing that they might be the next ones laid off.

After a year of frustrating negotations, Mr. August found an insurance company that would back his plan, which he called the Economic Security Program, and he formed the E.S.P. Fidelity Corporation to market and administer it.

It was slow going until last March, when E.S.P. Fidelity received word, first through the office of Senator John V. Tunney, the California Democrat, and then directly from Robert Hollister, assstant general counsel of HUD, that the agency had "no legal objection to the program."

"Since the program does not in any way affect the sales price of dwellings," Mr. Hollister's letter said, "we do not intend to treat the payment of the premium by the seller as a reduction in the sales price, which would require an equivalent reduction in the loan."

With the HUD approval in hand, Mr. August disbanded his public-relations firm. E.S.P. signed up 15 builders in eight states, covering some 7,500 home buyers, and was close to signing up 10 more builders and covering 7,500 to 10,000 prospective buyers. Then, because of a decision by an official of the Veterans Administration, the program faltered.

On May 3, the official, G. Jarnigan, chief of the construction and valuation section of the Los Angeles office of the V.A., informed one of the builders who had signed with E.S.P. that the program violated agency regulations concerning sales inducements. Using it could serve as the basis for suspending the builder from participation in V.A. programs, the official said.

A month later, Mr. Hollister, the HUD official, wrote Mr. August, saying that HUD had studied the program further and was changing its mind about having no legal objection.

The Government's objection to the Economic Security Program focused on its contention that the plan was a "giveaway," comparable under Federal regulations to giving buyers free ponies or color television sets. Such sales promotion tools are prohibited by the agencies.

The economic protection was not an integral part of the real estate, the Government argued, so its cost could not be included in a mortgage guaranteed by the Government. In effect, the Government was telling the builders that it would reduce its guarantee by the amount the builders had paid for the E.S.P. coverage.

Mr. August argued that his program was an integral part of the real estate because, unlike a pony or a television set, it did not pass into the possession of the home buyer and he could not sell it or take it away from the real property that was being financed.

Mr. August also noted that many builders,

as a sales incentive, absorb closing costs amounting to $400 or $500 without being penalized by the Government agencies.

To Government charges that builders would pass the cost of the program along to consumers, thereby increasing the valuation of the property to be financed, Mr. August replied that his program could actually reduce a builder's interim-financing costs by stimulating sales.

E.S.P. Fidelity's suit uses this example: a home costs the builder $22,000, which he finances at 7.75 per cent. His financial cost is $142 a month, and the entire cost of E.S.P. coverage for the house would be $100. "Thus, if a builder sold his house at least three weeks faster because of the policy, he would lower his cost of interim financing to a point that would cover the cost of the policy." The suit says that in addition the builder would have enhanced his goodwill in the community by offering the program.

Mr. August contends that his company's program, had it become nationally operable, could have reduced Government repossessions by 40 per cent, based on Federal projections. He points out that HUD owns more than 40,000 repossessed homes, purchased at a cost to taxpayers of some $108-million.

Government records, Mr. August maintains, show that most repossessions take place in the first three years of home ownership, which would be covered by his program, and that sudden loss of income by the homeowner is the primary cause of default.

The E.S.P. position was upheld on every point in a review by the Congressional Research Service of the Library of Congress, in a report to the housing subcommittee of the House of Representatives on Oct. 19, Henry B. Schechter, the service's senior specialist in housing, remarked: "As a general matter, it is difficult to understand why F.H.A. and V.A. should oppose E.S.P. policies. In addition to consumer protection, they would help to lower the F.H.A. and V.A. foreclosure rates."

In the course of Mr. August's wrangling with the Government, he has lost most of his E.S.P. clients and has been unable to sign up others who had shown interest, he states in an affidavit submitted to the court.

The Government has until March 23 to respond to the suit, but Mr. August says that without injunctive relief from the courts, E.S.P. Fidelity will be forced into bankruptcy before then.

And he could lose his own home. He said the only way he was able to get an extension on the lease-option he holds on his home was by presenting a copy of his suit to the present owner.

HUMANE TECHNOLOGY

Mr. KENNEDY. Mr. President, as chairman of the newly established Technology Assessment Board, I have received many inquiries from members of the scientific and technical community, from industry, and from the public at large regarding the approach to be followed by the Congressional Office of Technology Assessment. It will be some time before the Technology Assessment Board has established the policy framework within which this office will function.

But in the interim, I think it may be helpful to indicate my own view that the office should take a positive, balanced approach to technology assessment. Rather than seek problems which may impede the utilization of technology, I believe the aim should be to find ways in which science and technology can better serve human needs.

In the March 9 issue of Science magazine, this view was cogently expressed by the distinguished sociologist of science, Amitai Etzioni, and 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:

HUMANE TECHNOLOGY

In cocktail party sociology, where slogans serve as substitutes for thinking, technology is often depicted as anathema to a humane, just, "liberated" society. The defense made by the friends of technology is equally simplistic: "Technology is a set of neutral means; whether it is used to good or evil purposes is not determined by the technology itself."

Both of these viewpoints are as valid as half-truths usually are. In fact, most technologies do have fairly specific uses; no one has yet been killed by a cable television. And, while some technological developments do promote an impersonal, efficiency-minded, mass-production society, other technologies are essential for a more humane society.

Some recent technological developments take over routine and repetitive jobs, freeing people from the drudgery of counting, calculating, remembering numerous dull details. It is also true that these same technologies, those of the computer for instance, generate such routine work as key punching. But they eliminate more drudgery than they impose. Automatic switchboards of telephones do routine work which would require several million people, while generating little menial work. And, the way to combat remaining and newly created routines is to advance technology—to create, for example, computers that understand spoken English—surely not to condemn the machines.

Beyond this, new technology developments contribute to the solution of societal problems very close to the hearts of the deriders of technology, often making progress precisely where nontechnological attempts have failed. Thus, one of the barriers to arms limitation was the demand for human, on-site inspection, a demand quite unacceptable to the U.S.S.R. and unattractive to U.S. corporations worried about their trade secrets. The development of powerful inspection satellites made this issue obsolete. Another example: a cost-effectiveness study made by the Department of Health, Education, and Welfare shows that it is much more economical to avert a death by means of seat belts, a technological innovation, than driver education. The birth control pill, a chemical technology, is much more potent in reducing family size than are efforts to educate people to have smaller families. Instructional television saves teachers the time often used to repeat exercises to their classes ad nauseum; it allows pupils to view the lesson when they choose, as often as they need to, and, soon, at the pace they wish; and it is as effective as or more effective than live teaching—tune in "Sesame Street" some time.

As for the future, pollution will be reduced through the development of less polluting, substitute technologies, not by a return to the pretechnological age. Distance and isolation will be further bridged through technological means such as two-way cable television and more suitable housing patterns. More and more people will be able to enjoy increased free time, culture, education, and each other because more of their chores will be done by machines and supervised by machines, whose excesses are corrected largely by other machines.

All of this is surely less romantic than the world depicted by the advocates of a return to nature, but it is also more likely to be realized, and it promises a *more* livable world, by practically any humane standard, than our Stone Age past. The task before us is to marshal more of technology to the service of human purposes, not to put technology into a self-destruct, reverse thyself gear. This will not be achieved by a blind, wholistic approval of technology, but by carefully developing those tools which can be geared to advance our true values.—AMITAI ETZIONI, Professor of Sociology, Columbia University, and Director, Center for Policy Research, 475 Riverside Drive, New York 10027.

COMMENTS ON THE FEDERAL GRAND JURY

Mr. ERVIN. Mr. President, in the January issue of Trial magazine, a legal publication of the Trial Lawyers Association, a matter of consequence to all Americans was reviewed. In a series of articles the magazine studied different perspectives of the grand jury system. In an editorial summary, Trial magazine concluded that the grand jury system, the historical shield of the citizen from unwarranted invasions by the sovereign, has slowly been transformed into an arm of the prosecution, an arm used not only to investigate but to maintain a surveillance system over our citizens. This monitoring is accomplished, according to the editorial, by the employment of grand jury mechanisms which were intended to protect the individual—secrecy and the subpena. Added to the Government's tools, while employing the grand jury for investigations, is the ability to override an individual's privilege against self-incrimination by compelling testimony by granting or imposing immunity. This immunity protection is, however, questioned by Trial magazine as not being complete protection, coextensive with the fifth amendment privilege. Immunity has now taken the form of "use immunity," meaning that an individual is protected only from use of the testimony he gave to the grand jury and not from prosecution for the crime about which he testified. The magazine also pointed to other abuses such as the "economic ordeal of trial by distance" where a grand jury in another jurisdiction compels a party to travel a great distance to appear before it, and the "chilling effect" on first amendment rights where a grand jury is able to continue investigations after indictment as an evidence-gathering body. I might add here that Trial magazine is not alone in its questioning of the grand jury system.

The American Criminal Law Review published by the American Bar Association Section of Criminal Law in the summer of 1972 printed a 223-page symposium on the grand jury with articles by leading scholars in the field of criminal law. Although the symposium is of too great a length to be printed here, I will ask that the excellent bibliography in the Review be included in the RECORD at the end of my remarks.

Mr. President, the Subcommittee on Constitutional Rights in its hearings on newsmen's privilege has come face to face with the grand jury system and the difficulties it can create. The leading cases in the area of newsmen's privilege—U.S. against Caldwell, Branzburg against Hayes and In Re Pappas—all involve the grand jury calling a reporter to provide information that could conceivably be obtained in another fashion. I know this body is also familiar with the Gravel case where a grand jury sub-

penaed an aide to Senator GRAVEL to testify concerning the disclosure of the Pentagon papers. In relation to those papers, a grand jury also called Samuel Popkin, a scholar, to testify; he was released from prison after the grand jury was dismissed, and a court case held he could not be cited for contempt for his refusal to give an opinion. The Subcommittee on Constitutional Rights has received complaints from various private individuals concerning grand jury excesses. Senator KENNEDY of Massachusetts has addressed this body concerning grand jury problems in Texas and Senator TUNNEY has brought a letter of protest from California to my attention. The subcommittee has been keeping itself informed of the growing debate on the grand jury, and the staff has begun some preliminary research on the issues that are being raised. As a traditional bulwark of individual rights, the grand jury is an institution which deserves the careful scrutiny of Congress and of every citizen.

I would ask at this point, Mr. President, unanimous consent to have printed in the RECORD a copy of the editorial appearing in Trial magazine and a bibliography of articles pertaining to the grand jury appearing in the American Criminal Law Review. And I would commend the articles in Trial magazine and the bibliography for reading to all the Members of the Senate.

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

GRAND JURY FAILURE?

Modern times and changing social ideas of the American way of life has reached the American grand jury system—one of the nation's most venerable and awesome judicial fixtures.

Historically, the grand jury was intended to act as a shield between the individual and the power of the state—a protector of the individual's rights.

It was designed as an independent body with extensive powers, immune to the domination of either the court or the governmental prosecutor.

But today the grand jury system is under attack.

Charges are hurled that: it is no longer a protector but an "investigative arm" of the prosecution; it is being used for "surveillance purposes" by the U.S. Justice Department; and it is motivated—on occasions—by political concerns.

All danger signs that need heeding.

Denials that the grand jury is being abused come with vengeance from the Government.

Robert Mardian, former head of the Justice Department's Internal Security Division, argued that the system is vital to routing out necessary information when people dodge giving information about a crime, if testifying offends their political sensitivity.

But the grand jury practice of sitting in secret—a practice once to protect the innocent—in today's modern dress brings "a version strikingly reminiscent" of a proceeding that "threatens to still the presumption of innocence and the right to a public trial."

Added to this is the ordeal of examination without counsel—an atmosphere "heavily weighted in favor of government" even if the witness can consult outside the room with his attorney.

Combine these factors with the grand jury's right to dispense with the witness' privilege against self-incrimination; the economic ordeal of "trial by distance," where the empaneling is made at any place at convenience of the government; and the grand jury's new, and uncontemplated dimension, that allows it to become an evidence-gathering body after indictment, and to probe, expose and punish the exercise of political freedom.

Whether the practice of submitting cases to grand juries is a waste of time and money without any substantial offsetting benefits to the defendant, brings this question:

Does today's grand jury system need investigation, control, modification or total abolition if the rights of American citizens are to be protected properly?

Some reports urge substitution of the use of "grand jury information", by a preliminary hearing. Other reports urge stringent controls. Still others call for mandatory compliance with established rules of law and evidence in the proceedings. And many urge the right of counsel to be present during the entire proceedings.

Federal Judge William J. Campbell, 55 F.R.D. 253, states:

"A most effective way to reduce delay and backlog in our criminal system and expedite trials would be to abolish the grand jury. . . . The process of elimination should be started now. . . . Much of the bad procedural law which clutters the administration of justice is due to the anachronism of the grand jury and its offspring—the criminal indictment."

And in Florida, a questionnaire answered by former grand jurors called for: "increased training for grand jurors; public hearings by government officials on grand jury findings and selection of a better calibre of juror.

In Seattle, U.S. Attorney Stanley Pitkin, a racket-busting prosecutor, says: "With a grand jury one has always a moment of truth."

Ramsey Clark, former Attorney General of the United States and a great liberal, calls for retention of the grand jury system with revitalization of the law so that they (the juries) can become even greater safeguards (for citizens).

Trial feels that the changing times make it necessary that the bench and the bar initiate a national study of the archaic grand jury system and give its recommendations to both the Congress and the state legislatures for prompt action.

Only by such an impartial study can recommendations be acted upon either to abolish the system or set up controls for its modern times use.

[From the American Criminal Law Review, Vol. 10, summer 1972]

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A CASE OF FINE INVESTIGATIVE REPORTING

Mr. PERCY. Mr. President, it is a national disgrace that the inhuman conditions which exist in some of our public institutions are eventually improved only as a result of an exposé by the press and a resulting local scandal. The fact that our society allows prisons, mental institutions, and nursing homes to treat people without human compassion until forced to change by a cry of public anger is an outrage. As long as our society allows this condition to continue, we can only be grateful that members of the press take it upon themselves to investigate individual instances of abuse and to call for improvement.

The Chicago Sun-Times has recently published a series of reports on conditions at the Tinley Park Mental Center. I would like to commend the reporters, Nancy Day and G. Robert Hilliman, for their fine work in exposing the lack of administrative understanding and staff concern at Tinley Park. The series of articles has already led to a local hearing. Hopefully, immediate and substantial improvement of staff-patient relations and living conditions at the center will follow.

I ask unanimous consent that the four articles of the series be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

WHO PROTECTS A PATIENT'S RIGHTS?

(By G. Robert Hilliman and Nancy Day)

They have been called "snakepits," "ratholes" and "warehouses"—places, like the Tinley Park Mental Health Center, where the State of Illinois cares for the mentally ill.

For thousands—the young, the old and particularly the poor—they are homes. The state is their guardian.

Rape, sexual assault, prostitution and aggravated battery are felonies on the outside.

And they are felonies on the inside—in the wards and underground tunnels that connect them at the Tinley Park Mental Health Center. But they often go unreported to outside authorities, a violation of strict state mental health regulations.

There are crimes and often suspects. But seldom are there arrests and criminal charges.

Two Sun-Times reporters and two photographers who visited and worked in the hospital's wards at 183d and Harlem found evidence that:

(1) In that last 2½ years, at least six female patients have reported they were raped or in other ways sexually involved with male patients, hospital employers or others.

(2) Two girls, 14 and 15 years old, who walked away from a state drug abuse program on the hospital grounds, were picked up outside by a mental health employe and lured into prostitution.

(3) Hundreds of restraint orders, which allow aides to strap patients to their beds, have

been signed in advance by at least nine staff doctors.

(4) A security guard repeatedly clubbed at least two patients with a blackjack while he tried to bind their wrists and ankles with leather restraint straps.

(5) Patients were restrained without a doctor's order and left unattended for hours, often in urine-soaked beds. One man, even while strapped to his bed, managed to set his mattress on fire three times in one day.

(6) Scores of blank drug-prescription forms, which police say can be easily forged with a doctor's signature, were scattered on ward desks, within easy reach of patients.

Illinois mental health regulations state that the superintendents of mental institutions must immediately report any "actual or apparent violation of criminal law" to "appropriate law enforcement officials."

But Harold C. Piepenbrink, the superintendent at the Tinley Park center, has issued a memo to the security force stating that only "selected" incidents at the hospital should be reported to the Tinley Park police, who have legal jurisdiction on the state grounds.

In an interview, Piepenbrink said he issued the order because the police did not want to be called to the hospital every time "a patient took another patient's socks."

Tinley Park Police Chief Kenneth C. O'Brien said his department is seldom notified about crimes at the hospital, adding:

"We will investigate anything out there, but they (the hospital administrators) don't call us until three or four or five days after the incident has occurred. How can you really investigate a crime then?"

Piepenbrink calls the Tinley Park center "a bastard institution." It was designed to care for nearly 3,000 chronic and geriatric patients and is now used for short-term patient care. Those who must be hospitalized more than two months are sent to other state institutions, Piepenbrink said.

The beige brick buildings of the Tinley Park center—set far apart on plains of mud and dead grass—blend in easily with the barren winter landscape of the south suburb.

The first three hospital buildings—built and furnished at a cost of nearly $4.5 million—were opened in 1958. More than 20 buildings are now scattered on the 411-acre site.

Nearly 900 employees work at the Tinley Park center. The average number of patients is slightly more than 300. But even with the favorable staff-to-patient ratio, wards are often dirty, patients are ignored and security is lax.

Staff morale is low. Aides who work in the wards are not highly paid. A new aide (Mental Health Technician Trainee I) earns $4,812 a year.

Piepenbrink, who is a hospital administrator, earns $36,432 a year—$1,432 more than the state salary of Dr. LeRoy P. Levitt, the newly appointed director of the Department of Mental Health. Dr. Levitt has been dean and professor of psychiatry at the Chicago Medical School since 1966. Another Tinley Park administrator, Norman Kerr, earns $33,540 a year.

But the only time many aides see the hospital's top administrators is when one of the innumerable paper forms is missing. Dozens of employees and patients interviewed by reporters said they have never seen Piepenbrink on the wards.

Conditions, however, are not uniformly horrible at the Tinley Park center. Some programs are considered good. And there are dedicated employees who work long and hard to improve the patients' lot.

But often many of those responsible for developing and executing therapeutic programs at Tinley Park go about their work with indifference and indignation, in the eyes of sources The Sun-Times contacted. A more charitable view is that they are so enmeshed in paper shuffling they lose sight of the end results in humane terms.

"The damn professionals just don't work with the patients," said a staff member who wished not to be identified. "There is no motivation. No one cares for two-way communication.

"Every burden is on the ward workers," he said. "And they lose. They are the ones who must be in the wards eight hours a day while the administrators are busy quarrelling and fighting for power."

Another staff member, a long-time mental health specialist who also feared identification, said the apathy of the staff "from the top down . . . is pervasive."

"Patients are treated as second-class citizens here," she said.

In the wards, patients told a reporter that nurses and aides are not interested in their welfare and are lax in their duties.

"To get a nurse out of the station almost requires an act of Congress," said a man who spent several days as a voluntary patient in the hospital and has since regretted it.

"The governor would have to walk in there himself to get them off their butts."

On one ward, a reporter heard aides shouting at patients who asked questions while the employees sat in the station, munching potato chips and sipping soft drinks.

Security guards at the hospital say they have filed reports with their superiors, charging that doctors have signed restraint orders in advance so aides could strap patients to their beds immediately if they become "bothersome." During December, hundreds of the blank restraint orders signed by staff doctors were found in the Tinley Park wards.

Doctors, according to Illinois Department of Mental Health regulations, are not allowed to sign blank restraint orders, just as they are not allowed to sign blank drug prescription forms. Yet, last month, scores of blank drug prescription forms were found scattered on ward desks, within each reach of all the patients. Police said the blank prescriptions can easily be forged with a doctor's signature and filled in many drug stores.

Restraints, according to mental health policy, can be used only on "a prior written prescription of a physician." In an emergency when a doctor is not immediately available, restraints may be used, but a doctor's order must be obtained within eight hours.

In all cases, the doctor issuing the restraint order is "responsible for seeing that each prescription contains a statement of events leading up to the need for their use and documentation of the purpose for which the restraints are applied."

Mental health regulations state that employes who violate the restraint rules will "be subject to immediate and severe disciplinary action."

"The department will not tolerate any use of restraints in an abusive or punitive manner," the regulations state. "It is the responsibility of the facility superintendent to ensure that this rule is complied with."

Capt. Carlis Richards, the chief of the hospital's security force, said security guards have filed reports with the hospital's administrators, charging that staff doctors have violated the restraint policy and have even failed to examine patients promptly in emergencies.

But Richards said hospital administrators took no action to stop the abuses until reporters questioned them about it. Now, Richards said, the aides fill out the restraint orders and send them to the hospital's switchboard to be signed by staff doctors the next day, still a violation of mental health rules.

Piepenbrink said he sent letters of reprimand to two staff doctors who signed the blank restraint orders and warned others.

"I corrected the situation," Piepenbrink said. "And I expect the practice to stop immediately." But he said he did not know that at least seven other doctors had also signed the blank restraint orders or that the slips were being signed at the telephone switchboard a day later.

Another security officer, Sgt. Charles M. Wilson, said that about two years ago he saw a security guard repeatedly club two patients with a blackjack as he struggled to strap them to their beds.

"We were putting a patient in restraints," Wilson said. "We got him to the floor and (the guard) came out with a blackjack and started hitting him."

Wilson said the guard hit the patient "four or five times" before he was pulled away. Later, Wilson said, he saw the same guard club another patient. Both beatings were reported to hospital administrators, Wilson said.

Despite regulations that prohibit employes from carrying any weapon to work, Wilson said the guard carried the blackjack "at all times" until it was confiscated. Official records show that the guard was given a written reprimand after the blackjack was taken from him on March 1, 1971, by the hospital's chief security officer.

The letter of reprimand—dated March 8, 1971, and signed by Edward C. Simmons, administrative assistant to Piepenbrink—said the guard's possession of the weapon was "a violation of both verbal and written policy and constitutes insubordination."

But the letter contained no mention of the two beatings Wilson witnessed. The guard, who has a minor criminal record, is still employed by the hospital at a state salary of $7,908 a year.

Piepenbrink said a thorough investigation of Wilson's charges found "no indications that the guard had ever used the blackjack."

"The (Wilson's) story could be a fabrication," Piepenbrink said.

On dozens of other occasions, Wilson said he has watched aides brutally push patients around the hospital wards. Once Wilson said, an angry aide slammed an elderly patient who had asked a question against a ward counter. The woman was later treated for a broken hip, he said.

These, however, are not the only violent crimes committed at the hospital.

An extensive study by The Sun-Times of police and hospital security records filed during the last 2½ years found that at least six women patients have reported they were raped or otherwise sexually molested. Security officers and aides at the hospital said scores of other sexual assaults have gone unreported during the same period.

The reports—filed under assault and battery, rape, possible rape, inappropriate behavior and prostitution—tell sordid details of alleged illicit sexual acts.

On Dec. 16, 1972 Tinley Park police were called to investigate an "alleged battery and rape." A 41-year-old woman was found crying hysterically in the bedroom of a ward. Blood was streaming down her face. Her dress was pulled up. A male patient was sitting beside her, blood was on his face and hands. Police turned the case over to the state's attorney. No criminal charges have been filed.

On Nov. 4, 1972, a female patient reported to hospital security officers that she had sexual intercourse with a hospital employe. She later said she was not forcibly raped, and no criminal charges were filed.

On Oct. 22, 1971, a patient told hospital authorities that a male aid unlocked an unused bedroom on the ward, took her inside and had sexual intercourse with her. No criminal charges were filed.

On Oct. 3, 1971, a female patient told security officers that a male patient had forced her into a bathroom and raped her, threatening to cut her throat if she resisted. A doctor

said there was no physical evidence of forcible rape. No criminal charges were filed.

On Nov. 12 and 13, 1970, a female patient reported to security officers that she had sexual intercourse with at least two male patients in a basement. No criminal charges were filed.

On May 5, 1970, a female patient who was found by police at a Chicago Heights bus depot said she was forced into a car at the hospital and driven to a south suburban hotel where she was raped by at least two men. No criminal charges were filed.

And on Oct. 26, 1972, two girls who walked away from a state drug abuse program on the hospital grounds were picked up outside by a state youth supervisor, driven to a North Side hotel and lured into prostitution for $20. The girls, 14 and 15 years old, were returned to the drug program the next day. And the youth supervisor was fired. No criminal charges were filed.

Tinley Park police chief O'Brien said he was not notified about the missing girls until 10 days after they returned.

Supt. Piepenbrink said some of the reports were "partially true" and others were "absolutely not true." He did not say which reports were false.

"I believe a couple of disgruntled employes just said these heinous things are happening and that we are trying to cover them up," Piepenbrink said.

But Chief O'Brien said the hospital's security force should have the same training as his 26 policemen. And his policemen should have more training to deal adequately with patients who often wander off the hospital grounds and into the village, he said.

But unless the communications and reporting procedures are improved between the hospital and the police department, O'Brien said additional training will be of little value.

"If you saw a man rape a friend or a member of your family in front of your home, you would call the police immediately," O'Brien told a reporter. "I don't understand what the delay is out at the hospital."

"I don't think anybody is intentionally covering up out there," O'Brien said. "But if there is a cover-up, it goes all the way to Springfield because that's where Piepenbrink has to report."

"These crimes are felonies," the chief said, shuffling through a stack of police and hospital security reports. "These patients are entitled to the same police protection as anyone here in town. But they are not getting it."

HOW THEY'RE SUFFERING FOR THEIR INSANITY

(By Nancy Day)

Locked into the men's side day room with no supervisors, the patients milled about aimlessly at the Tinley Park Mental Health Center.

One young woman with long brown hair and big wire-rimmed glasses entered the empty nurses' station, plopped down in a chair and turned up the radio.

"This I really dig," she said in a voice that has a tendency to be too loud.

Humming softly, singing along when she knew the words: "Starry, starry night . . ."

"How you suffered for (almost a shout) your sanity:"

Then, her easy going mood gone sour by the end of the popular tune—"They would not listen . . . perhaps they never will"—she sobbed, "My babies, I want to see my children.

I can face reality!"

Probably, she can't face reality—not fully, anyway. That's why she is confined to the center at 183d and Harlem, where she speaks of six dead babies, abortions, miscarriages.

But still, no one was there to comfort her, no one to encourage the spark of emotional release ignited by the music. Just other patients, lost in their own thoughts.

The young woman was one of many patients I talked with and observed during a series of visits to the center over a three week period. I gained access to the locked wards by posing as a college student volunteer, feigning interest in a mental health career to ask questions of doctors and staff.

I saw patients put into restraints—strapped with leather to their beds—for hours, not allowed to go to a bathroom. I saw patients sprawled in corners, under tables and in shower stalls, with the staff paying no attention. I heard patients verbally abused by employees.

There was nothing to do all day for most of the patients except watch television. I saw a few board games and puzzles, but they were seldom used. The other choices were pacing, waiting for meals or, for the lucky ones, going to "Apple Tree," a cottage on the grounds where there are planned programs and people who exhibit a strong interest in helping the patients.

In contrast, there is little pep or enthusiasm on the ward. Most of the time I spent there was during the day, when the problem is not one of understaffing but of little patient attention by the numerous employees who are on duty. Even though volunteers don't usually spend as much time on the wards as I did, to further guard against false conclusions, fellow Sun-Times reporter G. Robert Hilliman and I interviewed dozens of people—past and present employees and patients.

All substantiated my observations. Most refused to be identified. "You have no idea about the reprisals possible," they warned.

The day the woman cried out for her children, there was a reason the 40 or so men and women of all ages were confined to the men's side. A housekeeper was mopping the floor in the women's day room and didn't want her work immediately messed up.

There was apparently no reason, however, for the aides to stay in the women's ward, tending to their paperwork and angrily shooing away any patient who wandered in when the door connecting the ward was temporarily opened.

On the men's side, with no television, most patients sat in plastic chairs around the sides of the room. Many stared at the falling snow. One hyperactive man fiddled with the Ping-Pong table, its net missing and with only one paddle and no balls.

A middle-aged woman, eyes glazed, mouth open continuously, shuffled around in socks, but no shoes. (Open, dry mouth; glassy eyes, and sluggish behavior are often signs of overmedication, a mental health specialist told me, adding that it's hard to get at the root causes of a patient's problem when he's too doped up.)

Occupied with aimlessly buttoning and unbuttonning the top of the faded blue plaid housedress she wore, the woman focused her attention on a rusty, bent coat hanger on top of a stack of old magazines.

She picked it up and toyed with it, carrying it around for a while.

Lying about the room were other potential weapons in the hands of unstable people: pool cues. No one encouraged patients to play pool for recreation, and none did.

The activity room between the two wards was filthy. Orange and yellow plastic chairs were stacked helter-skelter or overturned. Cigarette butts and empty matchbooks littered the floor. Scribbles covered the walls: names, initials, a big purple "Thank You" and the inscription: "Man has created the means of his own destruction (sic)."

A few watercolor paints, the kind that come in little circles in a metal case, were dried out on a table. One man slept in the corner. I wondered whether he was unconscious.

In the dressing stalls outside the shower room, another man lay face down, motionless.

The next morning, just after breakfast, I entered the ward again. Patients ambled through the halls while staffers gathered for their seemingly interminable meetings.

Day and night, the doors near the nurses' station between men's and women's sides are unlocked. Some patients and employes say the access encourages sexual assaults; administrators I talked to say it makes the ward environment more like the "real world" and note that the tranquilizers make most of the males impotent anyway.

The area the patients have access to is roughly U-shaped, with two long corridors leading to the men's and women's sides. The rooms, which sleep four, are kept locked all day except for patients put in restraints.

The air was very close and stale. Many patients and workers chain smoke, and no windows were open. Most of the patients looked unkempt and no effort was made to help them clean up, although once or twice an aide suggested a patient take a shower.

Two administrators broke the routine when they swept in to berate the ward staff. (The term "administrator" is a job classification with grades from one to five used to describe employes involved in management rather than direct patient care. In hospital jargon, "administrator" can also mean a person with supervisory authority who normally works downstairs, in an office, rather than a ward, whatever his official classification.)

When a woman came to visit her son the day before, no one knew where he was, the men said, and he couldn't be found for several hours. Only physicians are supposed to issue grounds passes, but that Monday aides had signed them. It took an irate mother who made life miserable for some bureaucrats to uncover the practice.

Some of the aides resented the reprimand for signing the passes. I sat at a day room table with two patients as we watched the argument that ensued. One administrator piously told the ward workers: "The idea is more patient contact."

"Hell, we couldn't get much more," retorted one aide. "They reach their arms right in here."

(The glass has been removed from the nursing station, allowing aides to yell at patients without getting up and also allowing patients to grab things. One young man stole a nurse's keys last month, let himself out and escaped in her car, which he later abandoned. He can't recall where.)

The hours dragged on until lunch. Then Barbara Phelps emerged from her "office" —a madeover patients' room at the opposite end of the ward from the dayroom where the inmates frittered away their time to shout "Noon!"

Noted for her flashy dress and belligerent manner, Ms. Phelps is de facto head of the ward, although her official job is licensed practical nurse.

Those too drowsy to notice the clock (and those asleep in out-of-the-way places) got no food.

The "recreation" for the day came after lunch. "Here's to Your Health," a film courtesy of Pfizer Pharmaceuticals, was shown and an illustrated booklet distributed that informed patients they may get side effects from their drugs. In that case, the doctor may prescribe another drug: "one for your emotional symptoms, and a second one to get rid of the side effects of the first one."

The afternoon was more placid because John had been put in restraints.

"Just for half an hour," nurse Kay Mertz told him as she and another female aide strapped him to his bed. It was a mild restraint, just one arm and one leg, but he remained there for more than three hours, urinating in his bed.

When John first arrived, I was told, he was almost totally withdrawn, a result of a crack-up in a penitentiary where he claims he was sent for a crime he did not commit. Later, he came out of his withdrawal, too much so for employes.

That morning, he hopped about the ward, half-dressed, putting his arms around various women, yelling sense and nonsense.

"Stop your hassling, John!"

"Get your shirt on!"

The aides would shout at him, but that was all.

Finally, John put on a bright pink shirt. Unfortunately, it was George's shirt, which caused an argument.

Tired of listening to him, the aides put him in restraints. They warned John earlier that if he did not settle down, he'd "go in restraints."

The restraints were not applied cruelly, but did seem to be more a convenience for the staff than a bar to John hurting himself or others, conditions stipulated in mental health department rules.

The rules also prohibit restraints as a disciplinary measure and say a physician should sign the order, except in an emergency. In this case, the decision was made by the nurse, and I saw no effort to contact a doctor, although he may have been consulted without my knowledge.

The activity director came in briefly. His name is Don Kujawa and he is blind. He talked with the staff a bit and asked why the cupboards were a mess.

During the time I spent on the ward, physicians were seldom around. One doctor (unlicensed, according to state records) told me he didn't need to talk to the patients that much since he could tell how they were doing by watching.

When a woman did come to see this doctor one day, aides were stepping over her knees to rifle through file cabinets, searching for some missing forms. The doctor left her sitting there while he went into an inner room to confer with someone on the phone about lunch.

Even when the physicians did talk to the patients, there was a language problem. The majority of the doctors are foreign-born and many have no psychiatric training. The use of immigrant physicians has been a practice in state mental hospitals for years, and in the past they'd enter private practice as soon as they passed the state licensing exam.

Physician's salaries have recently been upgraded in response to public outcry over past scandals. Supt. Harold C. Piepenbrink told me, "Three years ago, I had one physician with a license; today I have 14 with licenses including four fully trained psychiatrists and seven doctors with permits."

On Feb. 5, the last day I visited the ward, it looked a bit cleaner, although the patients did not.

The woman who had played with the hanger in January was still there, but this time in restraints.

A lithesome girl who looked no more than 18 was worried. She grasped my arm and told me, "There's a woman in there who wants out."

The woman's pleas were hard to understand, sounding as if her mouth was filled with cotton, but her problem was clear. She wiggled her legs back and forth. "I have to go, have to go," she moaned.

I went to a woman I'd never seen on the ward before—activity therapist Lyndall Maxwell, who had just been assigned "upstairs" and was upset about it, mainly because of night duty. She looked rather bewildered and asked an aide what to do.

"She's been taken care of," the aide snapped.

A few minutes later, I checked again. The woman struggled to sit up in the bed, but was held back by the straps on one arm and one leg. I pulled back the sheet to see if she had wet the bed. She wore no underwear—just a shapeless dress.

Next I asked Barbara Phelps, who was striding down the hall, if the woman could at least have a bedpan.

"No, ma'am!" she said, slamming the patient's door.

The next time I looked, someone had placed a bedpan on the next bed, out of the woman's reach. I asked an aide if I should give it to her.

"We're going home, honey," she replied. "Ask the 3 to 11s (the next shift)."

Arthur Dykstra, the $23,680-a-year administrator of the subregion, was surprised that I had been on the ward without his knowledge. He told me he welcomes criticism and is interested in "constructive feedback."

Asked about the apparent lack of interest of so many of his employes in the patients, he said that's one reason he removed the glass from the nursing station: "To encourage interaction."

The administrator, who came to Tinley Park from Elgin last March, said, "At Elgin we had large wards, dimly lit."

"I would fantasize a train station as the patients milled around, their possessions in shopping bags waiting for a train. The train never came. Nothing ever happened.

"At Tinley, we have semi-private rooms. You don't see that same kind of milling."

Just last Monday I was milling. And a patient named Linda handed me her brown paper bag of cigarets and other belongings to hold while she examined her eyebrow she'd singed with a match.

But perhaps someone will be listening to the patients soon. Dykstra said he hopes to have a "patient advocacy system" in operation by the end of this month. Berry Tucker "a young eager-beaver lawyer" in Piepenbrink's words, would serve as an ombudsman. Patients would be given forms they could fill out with questions and complaints.

Under the new security structure proposed by the administration, however, Tucker would also head security—a potential conflict of interest.

PATIENTS LIVE IN "DANGEROUS CONDITIONS"

(By G. Robert Hillman and Nancy Day)

State investigators have uncovered 269 "dangerous conditions"—many of them serious fire code violations—at the Tinley Park Mental Health Center, The Sun-Times has learned.

The violations, reported by investigators for the Illinois Fire Marshal's office during 14 inspection trips to the hospital in the last six months, were ordered corrected within 30 days of each report.

But Capt. Carlis Richards, chief of the hospital's security force, said most of the violations have not been corrected, despite repeated warnings from the state fire-marshal.

"There have been some waivers (adjustments)," Richards said. "But the majority of the conditions exist just as they did prior to or during the investigation."

Richards, who is also in charge of fire protection at the hospital, said often some of the fire alarm systems don't work. "And the staff doesn't know how to turn them on or off," he said.

In one report, State Fire Marshal Robert E. May said his investigators found that the hospital did not even have a fire evacuation plan.

On other inspection trips, May said, investigators found that many fire extinguishers were missing, electrical circuit breakers were locked open, and stairways and corridors were clogged with litter and obstructions.

In many of the hospital buildings, investigators reported that housekeeping was so poor it did not "adequately minimize fire hazards."

May said many of the "dangerous conditions" at the hospital were the result of "bad judgment on the part of maintenance personnel." "Some employes just were not doing the right job at the time," he said.

Harold C. Piepenbrink, superintendent at the Tinley Park center, said he has filed a "full report" on the fire code violations with the state fire marshal.

Piepenbrink said some of the reported violations, such as the lack of automatic sprinkler systems and heat detectors in some buildings, were "construction deficits" and could not be corrected without additional state funds. Other violations were ordered corrected immediately, he said, but he could not explain the delay.

May said the hospital staff had "co-operated fully" with his investigators and he was "satisfied" with Piepenbrink's report.

Piepenbrink, 46, was appointed superintendent in August, 1969—just two months after former Cook County State's Atty. Edward V. Hanrahan issued a report disclosing dozens of incidents of murder, rape, prostitution, torture, narcotics traffic and aggravated battery at Tinley Park and Chicago State hospitals.

"Illicit sexual acts are so common that they are practically ignored," Hanrahan said after a two-month investigation in 1969.

Hanrahan said security guards at the two hospitals were not required under state mental health regulations.

At the Tinley Park center, Piepenbrink has issued a memo to the security force stating that only "selected" incidents at the hospital should be reported to police.

Pipenbrink said he issued the order because the police did not want to be called to the hospital every time "a patient took another patient's socks."

As a result, Tinley Park Police Chief Kenneth C. O'Brien said his department is seldom notified about crimes at the hospital.

An extensive study by The Sun-Times of police and hospital security records filed during the last 2½ years found that at least six female patients have reported they were raped or in other ways sexually involved with male patients, hospital employees or others.

And two girls, 14 and 15 years old, who walked away from a state drug abuse program on the hospital grounds, were picked up outside the institution by a mental health employee, driven to a North Side hotel and lured into prostitution.

Tinley Park police said they were not promptly or properly notified about the incidents and no criminal charges have been filed.

During the 1969 investigation, Hanrahan criticized hospital administrators for reporting patients "discharged" if they wandered away from the hospitals and were not found immediately.

But state mental health regulations still state that "A patient on unauthorized absences, whether voluntary or committed, should be discharged after a reasonable period of time and no attempt shall be made to expend the energies of the Department (of Mental Health) in notifying law enforcement authorities for the purpose of apprehending said patient unless the patient is deemed too dangerous to himself or the community."

In December, 1969, when Piepenbrink was superintendent at both Tinley Park and Manteno State hospitals, the decomposed bodies of three elderly women patients missing four months from the Manteno hospital were found in fields about 300 yards outside the state grounds.

Kankakee County sheriff's police said they had not been notified that two of the women were missing until their bodies were found.

But Edward C. Simmons, then assistant to the superintendent at Manteno, insisted that the police had been notified and that 50-man hospital search parties had looked for the missing women for 10 days. Simmons is now

administrative assistant to Piepenbrink at Tinley Park.

In May, 1969, under Piepenbrink's administration, large quantities of drugs—mainly tranquilizers—were discovered missing from the stocks at Manteno and two other state hospitals.

Spot checks by three auditing firms found that in some wards at the hospitals, more than 50 per cent of the tranquilizer stocks were missing.

Investigators said the drug shortages were due either to pill pilferage for resale, shoddy bookkeeping or the unauthorized drugging of patients by hospital employes.

Later, a state legislative investigating committee conducted hearings into charges of sexual abuse, unsanitary conditions and poor supervision at the Manteno hospital.

Sen. Frank M. Ozinga (R-Evergreen Park), chairman of the Legislative Commission to Visit and Examine State Institutions, said after the hearings he was "satisfied" with Piepenbrink's administration at Manteno. But other legislators, including Rep. Robert S. Juckett (R-Park Ridge), said they were "not satisfied with all the answers."

Despite the questions unanswered in the views of some, Piepenbrink was placed in charge of the Tinley Park center in addition to his duties at Manteno.

In the fall of 1971, 35 severely emotionally disturbed children were without electrical power at the Tinley Park center for 11 days. The power was restored only after hospital aides walked off their jobs in protest, saying the children could not be bathed, records could not be kept properly, drugs had to be dispensed by candlelight and people were shivering in the cold nights with no heat.

Simmons said then the children were not moved to another area because Piepenbrink did not want to interrupt the program, even though the aides said the only program possible under the circumstances was "custodial treatment."

Since Ozinga investigated conditions at Manteno in 1969, his commission has issued reports on several other state mental health centers.

The reports have striking similarities. Ozinga's latest report was released last August after an unannounced visit and subsequent hearings at Elgin State Hospital.

The Elgin hospital—a largely long-term institution for patients needing care for more than three months—has some 1,700 employes. The average number of patients is about 1,900. Nearly 900 employes work at the Tinley Park center. The average number of patients is slightly more than 300. Those at Tinley Park who must be hospitalized more than two months are sent to other state institutions.

During his visit to Elgin State Hospital, Ozinga discovered conditions almost identical to those found by Sun-Times reporters and photographers who visited and worked in the Tinley Park wards at 183d and Harlem. Ozinga reported that:

(1) Patients—generally unoccupied, unmotivated and unsupervised—were found scantily dressed, lying on filthy floors and hallways.

(2) Attempts to make the patients responsible for the cleanliness of their wards as a part of a "therapy" program had apparently failed.

(3) Staff morale and motivation was generally poor.

(4) Administrative staff responsible for decision-making within the hospital were characterized more by verbosity than action and were ineffective in directing and monitoring staff performance.

(5) The hospital's manpower and budgetary resources were pressed by demands of the state to provide quick treatment and transfer to community-based facilities and were monopolized by a concern for rapid discharge of patients.

(6) A beleaguered, overburdened and inadequate security staff was rendered nearly useless by the unwillingness of administrators to give security officers their support.

(7) Administrators appeared to have little personal contact with ward living conditions, were "distant from the concerns of front-line, lower echelon staff personnel" and were often viewed by both hospital employes and patients as "out of touch with what was going on at the ward level."

At the Tinley Park center, dozens of employes and patients told reporters they had never seen Piepenbrink on the wards, "not even passing through," as one of them put it.

SAPERSTEIN HEARING ON MONDAY

(By Nancy Day)

A hearing into abuses at the Tinley Park Mental Health Center uncovered by The Sun-Times will be held Monday.

The Illinois Mental Health Commission, headed by Sen. Esther Saperstein (D-Chicago), will conduct the day-long hearing on the hospital grounds at 183d and Harlem.

An investigation of the center by the Department of Mental Health at the direction of Gov. Walker already is under way.

Al Ronan, deputy director of the department, said, "I'm concerned with getting things cleaned up as soon as possible."

He urged employes, former patients, relatives and all others who have witnessed anything they feel is detrimental to good mental health care to disclose their information.

"I want to get the situation opened up," he emphasized.

"I need information that can be moved on. People have to be willing to come forth. If they can prove that retaliation has taken place because they have spoken out, that will be moved on, too."

A month-long investigation by The Sun-Times revealed a host of problems at the sprawling mental health center, among them: sexual abuse of patients, illegal restraint orders, drug prescription blanks and sometimes drugs themselves left in easy reach of patients.

The probe also pointed up the remoteness of many administrators from the reality of what is happening at the ward level.

While there are many dedicated employes at the center, there also are many who apparently do little work, regarding the patients as a nuisance to be endured rather than people to be helped.

There are almost 900 employes at the center and slightly more than 300 patients. Not all employes deal with the patients confined there, since some have responsibility for outpatient care at community facilities.

On Monday, Dr. LeRoy P. Levitt and Dr. Patrick Staunton made a preliminary inspection trip to the Tinley Park Center. Dr. Levitt, dean of the Chicago Medical School, has been named by Gov. Walker as the new director of the state department of mental health. Dr. Staunton is regional department administrator.

Dr. Staunton said Tuesday, "We are of course concerned about the many allegations that the news media have made. Dr. Levitt has directed that Mr. Al Ronan and I thoroughly review all the allegations and make a report and recommendations as soon as possible to him."

He added that the tour Monday of all adult wards conducted by Harold C. Piepenbrink, center administrator, turned up "no gross neglect or negligence."

Monday's hearing will begin at 10 a.m., probably in the administration building, Piepenbrink said. An auditorium on the grounds could be used if many show up. Piepenbrink said he would have no further comment on The Sun-Times' disclosures until the hearing.

Sen. Saperstein said all who wish to testify will be heard. All that is necessary is to go to the meeting room and sign in.

Those who cannot attend in person may address written testimony to the commission in care of Sen. Saperstein at 1432 W. Rosemont, Chicago.

The commission is a bipartisan study and investigative body made up of state legislators and private citizens.

Changes in department policy and operation can result from commission recommendations if they are ordered by the director or mandated by the Legislature through amendments to the Mental Health Code.

Sen. Frank Ozinga (R-Evergreen Park), who is a member of the Mental Health Commission and chairman of the Legislative Commission to Visit and Examine State Institutions, is most concerned with security at state mental facilities.

"We've been on this trail for a year," he said.

"These security guards will say to me, 'Ozinga, I'm telling you point-blank. When we're called in to stop a fight they say we can't touch the patients. If we see this sex molesting, the social workers say it's good therapy. What are we supposed to do?' "

Ozinga wants the security staffs expanded, their training upgraded, their manual "reactivated" and "appropriate arrest and other police power" given to them.

"If they do have the authority, then give it to them," he said. "And if they don't, abolish the job and then see what happens."

PRICE RISES OUT OF CONTROL—WHY WE NEED A FREEZE ON WAGES, PRICES, AND PROFITS NOW

Mr. PROXMIRE. Mr. President, last Saturday night I released a letter to President Nixon in which I called on him:

To impose a six months, across the board, freeze on prices, including food prices, wages, and profits now. A freeze now, stabilizing prices, will help prevent the big inflation followed by a recession, that the economy is headed for.

I took this action as a result of the hearings before the Joint Economic Committee of which I now have the honor to be vice chairman, and because of the huge increase in wholesale prices announced Thursday. In my letter I said:

There is now rampaging inflation and it will get much worse. This is an emergency and you should act now. A series of events makes this action imperative.

In my letter I cited:

The colossal rise in wholesale prices announced this week. . . . These are the prices of the future and indicate that matters will get much worse. While housewives and consumers are feeling the pinch of big price increases now, the truth is that "they haven't seen anything yet."

There are also the extraordinary price increases in industrial commodities, devaluation and the continued attack on the dollar, the doldrums in the stock market, and "both the fact and belief that phase III is a much weaker instrument to stop inflation than either phase II or the original freeze." These are additional reasons why the President should act now.

I stated further:

Finally, there are a large number of major wage contracts up for negotiation soon. If we don't get a tough price control effort now,

labor will demand and get huge increases in these contracts. That will bring on another upward thrust in the wage-price spiral.

I ask unanimous consent that the full text of my letter to the President be printed at this point in the RECORD.

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

MARCH 9, 1973.

Hon. RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to call upon you to impose a six months, across the board, freeze on prices, including food prices, wages, and profits now. You have the power to do that under the Economic Stabilization Act which is now in effect, and under the extension of that Act approved by the Senate Banking Committee only this week.

A freeze now, stabilizing prices, will help prevent the big inflation followed by a recession that the economy is headed for.

A series of events makes this action imperative. The colossal rise in wholesale prices announced this week is a stark fact. These are the prices of the future. They indicate that consumer price increases will be far worse.

They were highest for food and farm products. While housewives and consumers are feeling the pinch of big price increases now, the truth is that, "They haven't seen anything yet."

But price rises are also rampant in industrial commodities. Not only did lumber prices go through the roof, but such bellwether industries as metals and metal products, including steel, machinery and equipment, furniture, pulp and paper, and many others saw extraordinary price increases.

Devaluation and the continued attack on the dollar are additional factors adding to the crisis. Devaluation means higher prices for our imports and for the goods they compete with at home. It also means an additional rise in food prices as more of our food is sold abroad because of the effect of devaluation.

The doldrums in the stock market and both the fact and the belief that Phase III is a much weaker instrument to stop inflation than either Phase II or the original freeze, are additional reasons why you should act now.

Finally, there are a large number of major wage contracts up for negotiation soon. It will be impossible to negotiate non-inflationary wage agreements unless labor is assured that price rises will not nullify the effect of their agreements. If we don't get a tough price control effort now, which only a freeze can bring about, labor will demand and get huge increases in these contracts. That will merely bring on another upward thrust in the wage-price spiral.

Mr. President, there is now rampaging inflation and it will get much worse. This is an emergency and you should act by freezing prices, including food prices, wages, and profits for six months.

With best wishes.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

CONCERN FOR SOUTH AFRICAN STUDENTS

Mr. KENNEDY. Mr. President, for several years I have actively expressed concern about the inhuman racial policies advanced by the Government of the Republic of South Africa. As the world's last civilized country to officially demand distinct rights and privileges for citizens according to their race, South Africa singularly wears the banner of the most undeveloped society among the world's family of nations. Both its laws and its official doctrines are designed to advance the distorted notion of white supremacy. The continued oppression of black Africans who are forced to live under those laws has enslaved all of its citizens in a system that dehumanizes blacks and distorts the true meaning of life for whites.

Reports of recent events in that troubled nation clearly underline the extraordinary effects of the Government's inhuman policies. Using the authority of its Suppression of Communism Act, the Prime Minister of South Africa last week banned several student leaders and teachers from all public appearances. Members of the National Union of South African Students—NUSAS—and the South African Students' Organization—SASO—were banned by the Government, apparently because of their opposition to the Government's policy of racial separation.

For citizens in the United States, or in any other free world nation, the concept of government banning is almost an inconceivable one.

To know what banning means is very important for us in America. The banning action restricts the NUSAS and SASO members to districts where they normally live and forbids them to attend gatherings or to communicate with other people who have been banned. They are not allowed to teach in any educational institution, or to be involved in any way with anything intended for publication, or to be quoted by any other citizens of South Africa.

Because these restrictions were imposed in full accord with existing law, concern of those in other countries should be sharply intense. For, it is obvious that both black and white citizens in South Africa are forced to live under an extremely repressive regime.

On many occasions, South African officials have insisted on dialog with other countries to keep in contact with concepts outside their country. Yet, the Government blatantly denies to its own citizens the very freedoms that have been proposed to inform the rest of the world about life in South Africa.

Demanding that the Government remove the ban on these students and teachers is the minimum to be expected by the force of world opinion. The ban should be lifted not simply because it is an unjust and ill-conceived restraint of personal freedom. But, it should be removed because the banning is an exceptional symbol of the opposition to all that we in this country stand for.

Appealing the banning decision, or even to receive a trial or hearing on the banning order would logically seem to be an acceptable procedure. But the victims of this rigid order are completely denied any hope for the due processes of law as we think of that concept in this country.

The Government's order seems to suggest that the South African regime has so little faith in the talents and the skills of its young people that only through the use of repressive rules can they control the ideal for which the students have campaigned.

That order also suggests the Government may have little faith in its judicial system. For, if those who were banned had indeed violated basic South African law, then the judiciary system should properly serve to determine how justice should be done.

The fundamental concepts of a democratic society guarantee the full protection of the law to all who are accused as violators. South Africa insists that it is a democratic nation. If that is so, at least those people who have been banned deserve to receive the full benefits of the legal system.

It is my hope that from around the world, expressions of concern for the welfare of these students and teachers will insure the benefits of human dignity, individual integrity, and social justice.

I ask unanimous consent that an article of March 8, 1973, entitled "South African Students Protest Banning" published in the Washington Post be printed in the RECORD.

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

SOUTH AFRICAN STUDENTS PROTEST "BANNING"

(By Peter Younghusband)

CAPE TOWN.—South African students have planned a wave of nationwide meetings and marches in every major city this week to protest against "banning" orders served on 16 student leaders.

Eight of the leaders are top officials of the white student organization, the National Union of South African Students and the other eight are leaders of its black counterpart, the South African Students organization.

The banning orders, issued under the Suppression of Communism Act, restrict the students to the districts in which they reside, ban them from attending meetings and gatherings, from communicating with each other and from being quoted in any publication. Under the terms of the orders, the 16 students are even prevented from attending lectures or delivering them.

Those banned have no recourse to law, and the government may, if it chooses, extend the ban.

In the case of some of the black students, the restrictions are even more severe. At least three of them have been placed under house arrest.

The government, long irked by the student's vociferous condemnations of its apartheid and educational policies took action after a parliamentary committee which investigated the student organizations in secret sessions, reported that the activities of some student leaders were a threat to the security of the state. The move was clearly designed to smash the leadership of both student groups.

In announcing the banning orders against the white students in Parliament, Prime Minister John Vorster said the action had been taken in the interests of national security and law and order. He alleged, among other things, that NUSAS was financed by foreign sources aiming to overthrow the "existing order" in South Africa.

Geoff Budlender, former president of the Students' Representative Council at the University of Cape Town, who was elected chairman of a new NUSAS interim management committee, said last week:

"Far from being disheartened by the bannings, the government's action has shown that our activities are effective. Our commit-

ments are strengthened and we are encouraged by the spirit of great cooperation and support we have received from the students we represent."

NUSAS represents English-speaking students, not the Afrikaners, and numbers 26,500 members throughout South Africa.

Some newspapers here are probing the deep and apparently somewhat personal dislike Vorster has for student protesters and their supporters.

An Afrikaans author, Andre Brink, widely regarded as one of South Africa's leading writers, wrote to the prime minister warning him to take heed that President Charles de Gaulle of France, who also cracked down harshly on students, fell from power a year later.

Brink was startled by a personally signed reply from the prime minister, in which Vorster said he could see that other "pink liberals" had not learned anything from recent student disorders in South Africa. Vorster ended his letter by wishing Brink a good night's rest "in spite of the curlers in your hair."

Meanwhile, the major opposition party in South Africa, the United Party, is in turmoil over the fact that four of its members who served on the parliamentary committee investigating the student organizations signed the recommendation for "urgent action" against the banned students.

Catherine Taylor, chairman of the party's parliamentary education group, has resigned in protest. Other members have expressed shock at the extent to which the party has become committed in backing the government action against the students.

The signatories protested that they did not know Vorster would ban the students without trial.

NUSAS leader Budlender said: "We regard the United Party as an accomplice of the government in this abhorrent step and equally as guilty."

HOUSING: AN UNSUBSIDIZED SLUMP?

Mr. PERCY. Mr. President, an article in the March 5 issue of Time magazine pointed up some of the unfortunate consequences of the suspension of Federal housing subsidy programs for 18 months as originally announced.

It appears, for example, that housing starts will be down some 20 percent this year, a decline which could have serious "ripple" repercussions throughout the economy.

In addition, although we have heard that a large number of units are in the construction pipeline at this time, the freeze has had the effect in some cities of halting slum-clearing projects in midcourse, even to the point of putting a stop to construction already in progress. What are cities like Chicago, which has applications pending for some 8,500 badly needed housing units, now to do?

We know the freeze is temporary and I am pleased that President Nixon has now promised to have the results of an evaluation of the suspended programs ready in 6 months. But the consequences of even a 6-months' suspension may be far greater in economic and physical and human terms than anyone now anticipates.

I believe these programs to be sound conceptually. The very real problems plaguing them are primarily the result of a lack of adequate supervision and in some instances just plain bad management. The necessary administrative reforms should be promptly implemented. The moratorium should be lifted at the earliest possible time.

I ask unanimous consent that the article from Time entitled "An Unsubsidized Slump?" be printed in the RECORD.

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

HOUSING: AN UNSUBSIDIZED SLUMP?

It had long been obvious that the construction industry could not continue in 1973 the blistering pace of last year, when it started a record 2.4 million dwelling units, but economists and builders originally expected only a mild and healthy decline that would halt incipient overbuilding. Now, however, the National Association of Home Builders fears that starts will fall 20%, to around 1.9 million, the lowest since the recession year of 1970. That would be about twice as sharp a drop as first anticipated, and enough to put a painful crimp in builders' profits and hardhat payrolls.

The outlook has been darkened by President Nixon's decision to halt new federal money for subsidy programs that last year financed the construction of 14% of all housing starts. Three key programs are involved:

(1) The Public Housing program, under which the Government pays to local housing authorities about two-thirds of the rent charged low-income tenants in projects designed for them.

(2) Section 235 of the Housing Act of 1968, under which the Federal Housing Administration helps families with average annual incomes of about $7,000 to buy houses. Such families can get FHA-insured mortgage loans of as much as $24,000, and pay as little as 1% interest on them; the FHA pays the rest.

(3) Section 236 of the Housing Act, under which the Government pays most of the interest on mortgage loans to banks and other lenders for apartment houses for poor families. That enables the authorities operating these buildings to charge much lower rents than they would have to if they paid all the interest themselves.

The President ordered that no new projects be approved under any subsidy programs for as long as 18 months, while federal officials re-evaluate the programs' effectiveness. But the order specified that projects already approved by Jan. 5 could go ahead, and it was originally thought that enough work was under way to keep builders busy all year. Indeed, George Romney, who was Secretary of Housing and Urban Development when the freeze began, insisted that at least a quarter of a million subsidized units would be finished this year, about as many as in 1972.

Now, though, it has become obvious that the freeze will not only prevent much new building, but will stop many slum-rebuilding projects in mid-course, halting site-clearance work or even actual construction already in progress. Housing officials in some cities move such projects along on the basis of verbal commitments from federal officials. They sign a formal subsidy contract only when the builders are about to begin putting up steel and pouring concrete, or have already begun.

According to New York City's housing chief Andrew Kerr, the city, acting on Government promises of aid, had begun construction of 6,000 units. But because no written agreement had been signed, no federal funds will now be available, and the future of the housing is uncertain. "The Government left us holding the bag," Kerr asserts. The Chicago Housing Authority had applications pending with the Government for 8,500 units; now all work from planning to demolition has stopped. Plans for public-housing projects also have been interrupted in Milwaukee and Baltimore, and will be resumed only in the unlikely event that local officials can find money to replace federal financing.

The effect of the freeze on some builders will be drastic. In Georgia alone, it is estimated that the suspension of the subsidy programs will cost contractors $383 million in potential business over the next year and a half—$44 million just inside Atlanta. Newark, N.J., officials put the likely loss in construction payrolls in that city at $86 million. Black-owned mortgage-banking firms that have sprung up to specialize in subsidy work will be hurt even more than the builders. Dempsey Travis, president of Chicago's Sivart Mortgage Corp., the nation's largest black-owned mortgage company, has cut his staff 25% since the freeze began. He says he knows of at least seven other black-managed mortgage concerns around the country that have been pushed into bankruptcy or merger.

The programs have not been formally scrapped, just suspended while officials ponder whether they do enough good to be continued, possibly in changed form. A case for such restudy can certainly be made. Some of the subsidy programs have been scarred by scandal. Before a belated FHA crackdown, fast-buck operators in a few cities bought or built ramshackle dwellings under Section 235, got inflated valuations from FHA appraisers and sold the buildings to unsuspecting buyers at unjustifiably high prices. In addition, the attempt to move public housing out of the ghettos and scatter it through white middle-class neighborhoods has met with increasingly stubborn resistance in communities from Black Jack, Mo., to Forest Hills in New York City.

Builders concede that there have been abuses, but argue that tighter management without battering the construction industry from Washington could eliminate them or stopping needed slum clearance. They fear, however, that it will be a long time before they get any federal subsidy again—and with good reason. HUD officials in Chicago have not yet even received federal guidelines for evaluating the success or failure of the suspended programs. That lack indicates that the federal restudy is likely to use up the full 18 months, and then some.

GUY GILLETTE

Mr. MONDALE. Mr. President, the death on March 3 of former Senator Guy Gillette of Iowa has taken from us a truly visionary leader who had the foresight to change his views as conditions demanded, and the leadership to see to it that those views became American policy.

Former Senator Gillette, long an isolationist in international affairs, became convinced that only international solutions would suffice in the post-World War II world. In 1943, he introduced a resolution in the Senate which began the long process leading up to formation of the United Nations. In recognition of his leadership, he was later appointed to a bi-partisan Senate group that worked actively with the State Department in the drafting of the initial UN Charter.

Senator Gillette's 14 years in the Senate were marked by many accomplishments. However, his vision of a peaceful and cooperating world community of man, and the diligence with which he pursued that vision, will forever stand as monuments of wisdom and courage for all Americans.

We will all miss him.

DRUG USE ON THE ASSEMBLY LINE

Mr. KENNEDY. Mr. President, in a recent radio broadcast, National Public Radio explored the issue of drug use on the assembly line.

The report adds to the increasing documentation of a problem that demands our attention and concern. How much of the motivation behind such destructive activities as drug use are tied to the work itself still is unknown. However, the report indicates at least in individual cases that the worker's dissatisfaction with the job itself is a considerable factor.

I ask unanimous consent that the transcript of the program "A Day Is Like a Week: Alienation on the Assembly Line," be printed in the RECORD.

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

[From the National Public Radio, Feb. 21, 1973]

A DAY IS LIKE A WEEK: ALIENTATION ON THE ASSEMBLY LINE

THEODORE BUSHWRIGHT, auto worker at the General Motors assembly plant in Baltimore: I've been at General Motors since October of '58. And I just came off the line. It's more or less a job that ends up where you work by reflex. After so long doing the same thing over and over, it's just reflex. You—you don't have no—no interest at all. You can—don't even have to think about the job, you're so bored. It's just to the point where nobody cares about nothing; you just have to be there so you put in your eight hours or ten hours every day, and that's it. If it would come to the point where a man can feel proud of what little he contributes, it would help a heck of a lot.

BARBARA NEWMAN. Theodore Bushwright is an auto worker at a General Motors assembly plant in Baltimore, Maryland. His thoughts about boredom on his job are shared by thousands of workers throughout this land. Studies have shown that boredom is a problem among white collar office workers as well as assembly line workers, but it is worse on the line. A task force preparing a report on work in America called assembly line work the worst in America in terms of boredom and worker alienation.

The assembly line system of production was America's great gift to the Industrial Revolution. By standardizing parts, it lowered costs and put the acquisition of a car within the reach of the average American family.

But the human costs of manning that line have been increasing and many feel a major overhaul of the organization of the assembly line is needed. Sam Zagoria was until recently a board member of the National Labor Relations Board:

SAM ZAGORIA, former member of the National Labor Relations Board: The technique of the assembly line contributes to job alienation. It has all the possible elements. If we wanted to sit down and tailor-make a job that somebody would grow to hate, it would have the elements of monotony, of repetitiveness, of captivity—of being chained to one spot for a number of hours per day; it would have also the aspects of physical endurance that go into a manual labor kind of thing, and it would have the negative aspects of not using the person's brain, his imagination, his initiative.

BN. There is a growing body of evidence that assembly line work is producing a group of alienated, discontented and angry workers in America's factories and plants. Signs of alienation are the 35% increase in absentee rates during the last decade, high turnover rates, vandalism and even sabotage.

Dr. MICHAEL MACCABEE, social psychologist: The University of Michigan studies are beginning to show that when the work is deeply dissatisfying you can even see the results in the cholesterol level of workers. The study recently done by the Duke University Medical School on factors of longevity found out—they didn't even expect it, but they found out—that job satisfaction was the single best predictor of longevity, even more than genetic factors and health history.

BN. Dr. Maccabee's data about the correlation between longevity and job satisfaction is not well known. Neither is the extent to which job dissatisfaction is impelling workers to take drugs simply to cope on the job.

Jim Wright recently conducted a study on this for the White House:

JIM WRIGHT, who conducted a study for the White House on drug abuse among blue collar workers: In spite of the fact that we talked to many, many people who were using drugs, we always had a sense of amazement over just how many problems there were at the work place, that people had to turn to drugs. We're finding that there is a healthy percentage—by a "healthy percentage" I mean roughly about ten percent—of the men in factories who are using drugs *in the plant* but *not outside* the plant. In other words, they're using amphetamines inside the plant so that they can get pepped up and keep up with their jobs on assembly lines and so forth, but they're not using the drugs outside of the plant. And we're finding that many of the people who are using drugs are using them only to cope on the job. And this is a horrifying situation, which is why we're beginning to focus much of our attention to humanizing the work situation, because if the situation is conducive to a good, healthy human environment, one which is conducive to a strong and good mental health of the worker, then possibly the workers would not opt towards alcohol and towards the drugs at the alarming rate that they are presently doing in order to simply cope with the job.

BN. Last summer in a congressional hearing, Jim Wright said that he viewed drug abuse as a form of self-sabotage. That is, the destruction is self inflicted. In order to deal with this problem, a local union in Indiana, local 226 of the UAW, set up a hot line to deal with drug abuse problems. According to the local, it is the only one of its kind in the nation in which union members having trouble with drugs call upon their union brothers and sisters for help.

(Ringing of a telephone.)

MAN. UAW Hot Line, Mike speaking.

WOMAN. Hi.

MAN. Hi, Ev.

WOMAN. Are you there alone?

MAN. Huh?

WOMAN. Are you . . .

BN. The hotline is manned by volunteers of the local union. They would not permit us to tape a live call because they felt it would violate the privacy of the caller. But they arranged for a simulation of a call that did take place a few months ago. One of the people who took the original call now replays it for us:

(Ringing of a telephone.)

MAN No. 1. Local Hot Line, Roy speaking.

MAN No. 2. Yeah. What's happening?

MAN. No. 1. Well, not much, What's happening with you?

MAN No. 2. Nothing's happening. Nothing ever happens in here, man.

MAN No. 1. You getting warped?

MAN No. 2. Hey, You're getting really cool. Yeah. Yeah, if you want to call it that, that's where I'm at, man—with all these lovely people. It's just—it's just not for me. I'll tell you. I mean, you know—did you ever work in a factory?

MAN No. 1. Yeah. I work there everyday.

MAN No. 2. Everyday? Wow. That's a bummer. That's—I—I cannot believe that: everyday. I can't do it everyday. Maybe—maybe three or four times, you know. But, aahhh, the people here are really sick. You know? Nobody wants to talk. Nobody wants to do nothing but sit on that stupid line and put these, you know, screw—hey, you want to know what I do?

MAN No. 1. Yeah, What?

MAN No. 2. Yeah, really—are you ready for this? I get paid, like, you know, almost five dollars an hour. Can you dig that?

MAN No. 1. Yeah.

MAN No. 2. Yeah. And I put this nut on top of this bolt. Huh? Is that cruel?

MAN No. 1. Yeah. That's neat, yeah.

MAN No. 2. No, man. That's not "neat." See, you don't—you don't see how that's not neat, see, 'cause it just—you know, like nobody talks to you, no—nobody even cares.

MAN No. 1. Yeah. I got the same kind of job myself, you know.

MAN No. 2. Well . . .

MAN No. 1. It's a bummer.

MAN No. 2. Yeah Yeah Yeah, but it's even worse tonight than it's ever been, man. Listen, can I tell you something and, you know, like nobody would know, huh?

MAN. No. 1: Sure.

MAN No. 2. The foreman's really been hassling about missing work, you know. That's all he cares about: just come into work. He don't—he don't care why I can't come into work or something. He don't care I've been up all night. So he says, "Come into work or else," you know. So like I came in, man, and I was really, really down, you know? And I asked this dude, you know, if I could get a little speed, 'cause I knew he had some, you know. And, man, it's not working right, you know? Why, I'll—I'll tell you, people know that I've done some, 'cause they're all staring at me, man, all the time.

MAN No. 1. Well, what'd it look like?

MAN No. 2. Oh, it was just—It was just a tab, man, like all speed. He called it "strawberry mesc"—you know, mescaline, yeah?

BN. The reason why increasing numbers of assembly line workers are taking drugs is an interesting question. The assembly line has not changed. If anything, work there is easier than in the past. But along with the increased ease is also an increased simplification of jobs. And coupling this with the growing numbers of young workers, the result has been an unhappy situation. Young workers have greater education and higher aspirations than their fathers and grandfathers on the line. They were brought up in a freer society. Researchers say if one characteristic explains them then it is anti-authoritarianism. They do not accept the harsh authority of the line foreman as workers did in the past.

In addition, traditional work off the assembly line has been blocked. Assembly line workers viewed work as a way-station on their drive to becoming small, private entrepreneurs. They would work hard, collect their little nest egg and then open their small store. This route off the assembly line is now closed, as Dr. Maccabee explains:

Dr. MACCABEE. You see, what has been going on at the same time that the chance of self-employment has disappeared another process has been happening in the last 60 years or so. And that is the process of scientific management or develop of the—development of the large organization according to principles in which jobs are often constructed and heirarchies are constructed in order to make the roles the most mechanical they can be, so that . . .

BN. And the most efficient.

Dr. MACCABEE. And the most efficient—but efficient only in terms of a certain type of person. In other words, what's efficient depends upon who the person is. If you happen to be a—a person who's very self-directed and—and independent and works hard once he's got an assignment given to him, it—it may not be efficient to make him into a part of a machine where he's got a highly formatted and tiny job, because he's angry, and

if he's angry, how's he going to be efficient? And I think that gets us right to the—right to the—the nub of the problem today, because as our schools and—and our TV and radio and—and all kinds of cultural stimulation are making people seek more individual development, have higher ambitions, at the same time when those people are put in the kinds of jobs that require very little autonomy, very little individual judgment, very little skill, but just repetitive and monotonous or—highly controlled, then we get into a situation and it comes out in—it may not even come out in awareness; a person may not even be aware that it's the job that's doing it; all he's aware of is that he doesn't want to go to work today, it's hard to get up this morning, he'd rather take a puff of something or other to make him forget what he's doing. And those kinds of activities become symptoms of a problem which is the lack of fit between a type of person who's become more educated and more self-affirmative and a type of work that's increasingly controlled by large central bureaucracies and has the kind of task which—which doesn't require too much.

BN. Another factor in telling us to look at these jobs in another way is the result of studies that I think you've done and also Eric Fromm.

Dr. MACCABEE. Dr. Fromm recently cited a lot of data showing that boredom was directly related to destructiveness and that a—a person who is constanly bored develops, perhaps even unconsciously, a deep sense of powerlessness and of a need to—to assert himself in a way which if—if—if there's no avenue for constructiveness that, what one might call unlived life, becomes something which—which—which stimulates a person to destroy. And that, really, it's so clear when I talk to some of the auto workers, who say to me the only possibility for any ingenuity and any creativeness is a new way to sabotage these cars. I mean, that's just an illustration of it. What else—what else is—where else on our job is there an opportunity to think up something new?

BN. That unlived life that Maccabee speaks of often finds outlet in drugs. Union and management are aware of the growing drug problem on the assembly line, but they have been loathe to publicize it. Carl Wagner conducted a study on drug use on assembly lines for the United Auto Workers, but his study was never released. One high level UAW official gave as the reason for this the devastating data in the report. I asked Carl Wagner about it.

CARL WAGNER, who conducted a study for the UAW on drug abuse on the assembly line: Age more than any other factor tended to predict drug usage. Under the age of 30 the frequency of drug usage rises significantly. For example, those workers under the age of 30 who had used—used drugs numbered about 35 percent. The type of drugs used—well, hashish, marijuana, amphetamines, and barbiturates were overwhelmingly—occurred as the most frequently used drugs. Barbiturates and amphetamines were also used much more frequently among—among older workers than—than, for example, hashish or marijuana. It's—and hallucinogenic drugs. They're used almost exclusively by the younger workers.

One of the staggering discoveries that the—of the—"staggering" maybe is a little dramatic—but one of the really interesting discoveries, I think, of the research was that nearly 92 percent of all workers interviewed had access to drugs, knew where they could buy them.

BN. These are used on the line in factories?

Mr. WAGNER. There are a lot of—there are—there is a lot of drug usage on the line. There is a lot of drug availability in the plant. Reasons for usage differs with the kind of drug used. For example, the overwhelming number of people who used hashish and marijuana used it for kicks. But once you move beyond that you're—you deal with—and you're dealing with, I must—must admit, a fairly large percentage of drug users—the people who are using drugs are using them for job-related reasons in many cases, or factors of alienation. We grouped a number of responses to this, factors of alienation. What I'm suggesting is that a lot of drug usage in the plant is related to the kind of work people do in fact do.

BN. You mean boring, tedious work?

Mr. WAGNER. Oh, yeah. Working—and we don't—remember, a lot of people are speeding on dex' because—we got responses: "So I can work faster," "I'm working two jobs," "Because I get tired," or factors of alienation, stuff like "It's a terrible place to work," "It makes the day—it makes the day go quicker." The—the conclusion is, a lot of people who work in factories have used drugs, definitely a much larger percentage than—than formerly.

I don't know if anybody ought to be surprised by that. Last year Jerry Gordon in a report for BLS indicated that 15,000 people were killed on the job in this country; 25 million were seriously injured. The work place isn't a very nice place.

BN. When public issues like worker alienation are discussed, one tends to speak only to experts. But the most interesting insights come from those directly involved. In this case, assembly line workers.

Pat Clark is 25 years old. He works on the assembly line at the General Motors Delco-Remy plant in Anderson, Indiana. Delco-Remy is one of GM's largest complexes. It employs 15,000 workers assembling electrical systems.

Pat Clark is a founder of the UAW local's drug hot line and I asked him about the drug problem there:

PAT CLARK, assembly line worker at GM's Delco-Remy plant in Anderson, Indiana and founder of the UAW drug hot line there: I would say it's probably the number one problem, because, you know, everybody relates to absenteeism, disciplinaries and everything, but if you go back and look into why people are absent or, you know, why there's so many disciplinaries, you can relate a lot of 'em, and—and I would say most of 'em, 95 percent of 'em, to some background of using drugs, whether it be a hard drug, alcohol, nerve tablets. Let's put it this way: the majority of people that use drugs in the factory are using them because of the factory situation. Okay? It's a very dehumanizing-type factor in there.

I—I know that an eight-year-old child could do the job, because I've seen it done. I've seen a man bring his child in, during a—a tour that they had through the factory; he showed his child the job, and he wanted to see if his—you know, if his boy could do it, and in five minutes the boy was putting the parts on the line almost as fast as he was; and he'd been on that job for eight years.

I mean, you know, when you get into situations like that it's the—it's the situation of the job and the—and the people. People are not geared to work like that; they need some type of break in that monotony. And that's—that's what's very dehumanizing about that. Like, if nothing else, maybe music or a place they could go to read a magazine. But to it—I mean, nobody likes to sit and do something over and over and over, monotonously, again, for eight hours it's like a suspended animation.

BN. What do you do?

Mr. CLARK. I sit for eight hours and do a job over and over and over. I mean, this is why I feel like I do—because I do not feel like I'm achieving anything; I have a complete mental breakdown, I'm not building any type of knowledge up in what I do. I'm not even sure what my part does when it leaves me. And I'm—I'm what they call a "wrapper", so if you can get out what a wrapper is, you know—it's a classified job. I make almost $5.15 an hour with everything involved in it. And I can't tell you that I really like—I don't like the job. If it were not for the money, I wouldn't be there. And it—you know, like I'd rather teach. But why teach for 7,500 to 8,000 a year when I can make 13,000 a year doing a nonsense job?

BN. Roy Winkler, also in his 20s, agrees with Pat Clark about the depth of the drug problem in Anderson:

ROY WINKLER, assembly line worker at Delco-Remy in Anderson, Indiana: I don't think you'd find a line, any line, in Delco-Remy (?) on any shift that's not got somebody doing some type of drug on it. These people are not satisfied; and they're not being rewarded for their work. They are being rewarded monetarily, but even that wears off. I mean, a person is terrifically happy with his job when he first gets it, but after he gets used to the monetary compensation and it becomes something he expects every week and—and has places for that money to go, then he starts looking for rewards in the way of recognition or possibly, I don't know, any one of a number of other things. He needs a lot of things for his personality, for his own psyche, that he doesn't get from the money that he gets from the company.

BN. What about you? You're young, very intelligent. Do you find your job satisfying?

Mr. WINKLER. I work on a hot line. I work with the union. And that's my reward—that's my drug, I suppose. I don't get any reward from my work at Delco-Remy. So I have to seek it out elsewhere. I have hobbies. And I do things out here at the union hall. You know, in 30 years you can retire. And that's what most people out at Delco-Remy are looking for, is their retirement. They just live for getting off the job. That whole eight hours all they concentrate on is getting off the job and getting away, getting away, getting something else to do. And unfortunately, those people who don't have hot rods to work on or scuba diving classes to go to or something like that, then they go to drugs or do something like that in another way.

BN. How did you end up at Delco-Remy?

Mr. WINKLER. Well, if you grow up here in Anderson, I would say you're almost forced to go to work at Delco-Remy if—for monetary reasons.

BN. Both Winkler and Pat Clark are members of that new generation that has come to America's plants and has found them most uncongenial places to work. Pat Clark says why:

PAT CLARK. I think what—I think what you're seeing right now, Barb, you're seeing a—a big transition from 20 years ago. I think you're seeing the majority of people in the plants, just like Jim said, not so concerned with wages anymore. I mean, they're thinking about "Gee, I have to be there eight hours a day," you know—"Why do I have to suffer eight hours a day?" you know——

I think—I think people now are more concerned about "what I have to do in the plant" and what type of recognition besides materialistic values. And I think that's because of the younger people coming in.

"Look, I've got a mind of my own"—Women's Lib, you know, they have a mind of their own; let 'em use it. The young hippie, ten years ago when the hippie generation started: "We are individuals; treat us as such," you know, "Let us make a decision." I think it's going into the plants now. I—I don't think it's "Do I make $100 a week? Or do I make $150 a week?" I don't think they care. The—like Jim said the more wages you get, higher prices and all that type of, you know, gunk that goes in a circle. I think they're concerned with "me as a person"—"Don't set me down like an animal or a ma-

chine. Work me as a person. Let me make a decision."

BN. Paradoxically, although workers like Pat Clark and Roy Winkler feel outrage at being treated like machines, neither of them nor their fellow workers are now prepared to strike over proposals to humanize work.

Mr. WINKLE. We were talking a minute ago about strike-able issues, that kind of thing. And I think you'd probably define a strike-able issue as an issue that the people feel strongly enough about in the shop in order to—to go on strike to achieve. And I think you need to take into consideration that the people are conditioned to expect from a strike either a monetary gain or fringe benefit gain at this time; they're conditioned to expect that type of thing. They don't normally think of achieving a better condition as far as dehumanization of the job or something like that's concerned. It's something that they'll have to learn to think about, something they'll have to concentrate on for a while in order to understand, though I think that's kind of the case we're in right now.

BN. Irving Bluestone, vice president of the UAW, is aware of widespread dissatisfaction on assembly lines. He is labor's most outspoken advocate of humanizing work.

Mr. BLUESTONE. It is important for workers to have the ability to have input in their jobs, to exercise their own creative abilities, their innate intelligence. And while there are workers who much prefer the repetitive monotonous job, doing the same thing day in and day out, over and over again, just so long as they can get the hell out of that plant and go home, an increasing number of workers think quite differently.

Participation in the management of the job doesn't necessarily mean redesigning assembly jobs alone. That's part of the problem. There are operations, for instance, which are not auto assembly operations but which are nevertheless assembly types, merry-go-rounds, for instance, where experiments have been undertaken to involve workers in setting up the job—what ideas, what input do they have—and by participating in the decisions relative to the make-up of the job, to the layout, even to the layout of the operation in the plant, in that section of the plant, the workers obtain a sense of participation, of inclusion, so to speak, which gives them a proprietary feeling about what they've doing.

Now, once that's been done, the job hasn't changed particularly. It—it is repetitive; it is monotonous. But the fact that is their job and that they have participated in determining how that job will be set up has some bearing upon their own satisfaction in their work place. The fact is that there have already been a sufficient number of studies indicating the need for a revision of the traditional Frederick Taylor "scientific management" approach to the designing of jobs.

BN. Frederick Taylor is despised by workers. It was he who years ago designed assembly line work to regard workers as interchangeable parts of machines. Bluestone readily admits that no one is sure of how to restructure work. He points, with hope, to the current experiment at the Volvo plant in Sweden, where workers assemble cars in teams off the line. In addition, Bluestone also thinks that it is feasible that workers could participate in decisions about production techniques, how they work, line speed and personnel policies.

One point Bluestone stresses is the lack of democracy on assembly lines where workers are subjected to the authoritarian and capricious rule of line foremen. I asked Roy Winkler and Pat Clark how they felt about their foremen. First Winkler:

Mr. WINKLER. You just shut up, really. But once you've had your foreman tell you, "If you don't like your job, get off of it. I'll either find somebody else to replace you or I'll put in a machine that I only have to oil once a year," then, you know, you just shut up and forget all about it.

Mr. CLARK. If we are intelligent, then we must find other ways to take out our frustrations. If we are treated like children, then we find other ways to be—regain our ego then, as a man or something. If I'm mad at night and I know if I say anything I'm going to get fired, I'll go out the next day and take a shovel and dig a big ditch or something. You know, it—it's the unintelligent people that can't handle it. You must having a copying skill. Intelligent people, so me, find that different coping skill. Drugs in the plant is a coping skill. If you can't handle what your foreman's saying, go out and get drunk; then you don't care what he says.

Mr. WINKLER. If you're treated like you don't have any brains at work, then when you go home you tend to take it out on the people at home. And also, if you're treated like a dummy or like a machine, and you notice, say, a defect in a—in a part you're building or something like that, you tend to ignore that and let it go on, because you're just a machine, you're just a dummy, and—and they've ingrained that into you to where you believe it. "I don't really know there's a defect in that"—and you let it go.

Mr. CLARK. Yeah, but you also have—I disagree with that in one respect. I think a lot of people—if you're a dummy, that's one thing; if everybody in the plant is calling you a dummy, that might make you pessimistic; but if one person is calling 20 people in the plant a dummy, if—if you have somebody to share that dumbness with, then you can overcome it. You know, like—like, there's 130 people in the department and the foreman is telling everybody the same type of thing: they can walk around and say, "Hey, who's he think he is?" you know, "I'm not really that dumb, Am I?"

BN. But you asked that question. What do you think of yourself really?

Mr. CLARK. What do I think of myself? I'm a very intelligent, light-hearted, fun-type person, who will take—you know, who will take what's handed out to me very passively, because as an end-result I'll get what I want. If I'm dumb to them and I'm getting the money every week, then I could not care what they think, because, you know, "I'll laugh all the way to the bank" is a good statement for something like that.

BN. While Clark and Winkler work in Indiana, there are many workers around the country who share their views, like this worker in Baltimore, Maryland:

Worker, from General Motors Plant in Baltimore, Maryland: Believe it or not, I truly hate General Motors with every fiber in my body because they're—to put it plainly, you know, they're common people; they really are. They—the don't care; they really don't care about anybody. They care about putting that car out. And they don't care if it's halfway decent; you know. They really don't care. That's their attitude: they don't care. They want you to be there on time; they want you to do a job for so many hours, put so many screws in or so many bolts, or put out so many seats or cars. And they don't care how you do it. If you shyster a job or—even a foreman will tell you, "Now, we'll let it go. You know, maybe the inspector will buy it." But I sure in the hell don't want to pay $5,000 for a car that's, you know, put together half-assed, to be honest with you. I feel, you know, strongly about that sometimes. And other times—I guess it's the mood, you know: "Hell, if they don't care, I don't care," you know.

I know I've changed jobs down there. I cannot stand to have the same job more than two years, so I've changed jobs quite frequently down there—because of the boredom; it is a boring place to work.

BN: You're 32. Well, you have a lot of years before you. Do you see yourself as having a good future, or something that you expected when you graduated from high school?

WORKER. Well, I—I was thinking about that last night. Really, when I was in the Navy, I—I sewed on a sewing machine on a ship. And I was thinking last night, I said, "That was ten years ago. I've been out of the Navy ten years." And I said, "Gee, just ten years ago if I'd've thought that I'd be working for General Motors sewing on a sewing machine, I'd—if somebody told me that I wouldn't believe it; I really wouldn't."

What the future holds I don't know. I don't like to think about it too much, for the simple reason I'm a strong person, I take it as it comes along. I do make plans on, you know, not a long duration but a short duration. I will survive. I've always said that. I—I'm a kind of person believes in surviving, at all cost. Whatever the cost is, I will survive. But, you know, we're all sort of dreamers in a way. I don't think I dream anymore about becoming a foreman or a—a vice president or something like that. I—I'm considerably happy down there. I kid people and say I just want to be free, you know, be a free individual. I want to—my biggest aspiration now is to retire when I'm 55 years old and live another 30 years and put it to General Motors, you know, because I'll be getting retirement pay.

BN. What about the other guys like you, your age, who maybe aren't as strong—what about the extent of drug addiction on the line? What do you see?

WORKER. There is drug abuse in there, yes; I see it. And there's pushers in there, yes; I've seen them too. I don't know if it's against the law to say, you know, that I have, you know, smoked. The jobs are boring. Some jobs are terribly boring; they really are. It's a darn shame that—it's like regimentation; it's over and over again. Some people can adapt to that. I don't know, I—I call 'em weak people, I call 'em mindless people, because they can adapt to that. There's people down there that had the same job for 20 years, doing the same work for 20 years. I couldn't take that; I really couldn't.

BN. UAW President Leonard Woodcock has recently said that proposals to humanize work should not be part of this year's contract negotiations with the big auto makers. This is a step back from the statement just a few months ago of UAW President Douglas Fraser that humanization of the work place would be among the top items during contract negotiations. It appears that the press may have escalated expectations of workers beyond which the union can deliver.

At the present time there is much uncertainty about how to humanize work. One GM official says if assembly lines were abolished it would cost the consumer $15,000 to buy a car. Others say that if workers were satisfied with their work, turnover rates and sabotage would decrease, thereby lowering true costs and improving quality.

So neither the union nor industry is sure what to do about humanizing work and dealing with alienation. The rank and file workers, for their part, are not currently at the point where they would strike over restructure of the work place, partly because they don't know what the restructure would be.

Albert Camus wrote that when work is soulless, life stifles and dies. And we must ask ourselves when we look at all the cars in America and the other manufactured goods we purchase, what was the human cost to produce these goods? Today we have heard about one of these: drugs in the assembly line. Is this a cost we want to continue to pay? This is Barbara Newman.

(Assembly line sounds)

MAN. To begin to think of people as people, and not as machines, is the key to the whole thing. When the company or whoever is structuring the work place begins to think of those people as thinking individuals, people who

need certain things to service their personality, and instead of thinking of them as machines that they oil once a month, then I think the people will begin to respond, you know, and—and begin to function more effectively.

STUDENT GOVERNMENT DAYS

Mr. ABOUREZK. Mr. President, I have just returned from a speaking appearance at Yankton, in my home State of South Dakota. The occasion was the 25th annual Student Government Days banquet sponsored by the American Legion.

Student Government Days is a nationwide event which allows high school students to actively participate in our government processes, both observing and taking part in the day-to-day operation of the government. I might note here that Yankton, S. Dak., was the originator of Student Government Days, its nationwide character being assumed after its initial success at Yankton.

Of the many capable students who were elected to government posts during this event, the student who was elected mayor, Mike O'Leary, was asked to address those of us attending the banquet. Upon hearing Mike's speech, I knew why he was such a source of pride to his parents, his classmates, and to his community. I ask unanimous consent, that his speech be printed in the RECORD so that it may be shared by everyone, but especially by those who so gloomily despair of America's youth.

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

MIKE O'LEARY'S ADDRESS TO STUDENT GOVERNMENT DAYS

My first reaction upon being told I had been appointed Mayor for Student Government Days, was "oh, wow, now I have to give a speech—what am I going to say." But then sometime during the next day as I was walking between classes a girl came up to me and said "Mike, your problems are solved, my dad said that just as long as you are going to be speaking with Senator Abourezk he would be more than happy to write a speech for you." I contemplated the offer a minute and then declined as politely as I knew how. Naturally I did not want to offend the girl and her father, but I figured that in all honesty to myself and in all fairness to Senator Abourezk I had better write the speech myself. Thanks anyway, Mr. Hirsch.

Seriously though, as I contemplated what I would say tonight and how I could make it relevant to Student Government Days, I searched for a quote to, you might say, get me out of a jam and to provide me with a guidance for my speech. I looked through a book here and a speech there, but found nothing. Ironically the statement I was looking for was right in front of my nose, or maybe I should say in back of my nose and at the front of my brain, and it has been there as long as I can remember. Because, except for the pledge of allegiance it is probably the statement that I first associated with that great and immense concept of government. "Government of the people, by the people, and for the people." Yes, that is it, the same old familiar phrase that we have heard in countless speeches and read in all our civics books. And now here it is again. Yet as familiar and commonplace as that phrase may be, nonetheless I believe it probably best expresses the whole basis and purpose of government in the United States. But then I asked myself "how does this help my speech? All those people in the audience know what that phrase means. What more can be said about 'government of the people, by the people and for the people' that has not already been said? What new meaning can I give it?"

Then I thought "why if everybody knows what government 'of the people' means do so many people have such a feeling of insignificance and unimportance in the face of government whether it be national or local. Why if everybody knows what government 'by the people' is do so many people feel divorced and completely set apart from government as if it were something completely beyond their reach. Why if everybody knows what government 'for the people' is does our city commission speak to near empty chambers on the second and fourth Mondays of every month, even after they regularly invite some 20–30 citizens to observe them in action. Why if everyone is so aware of what government 'of, by and for the people' means did only about 60% of the national electorate vote in the last general election. And why is this percentage even smaller when the elections are on a local scale. If *all* government is of, by and for *all* the people why is not the election of a member to the local school board as important as electing the President? And why is not the passing of a municipal ordinance considered of the same importance as a law passed by Congress.

If we all have such an awareness of the meaning of this phrase how is it that most of us probably know the names of the starting five for the Yankton Bucks basketball team, yet are stumped when it comes to naming the starting five for the Yankton County Commission? And how is it that we can readily recognize the names of all-pro athletes and Academy Award winners, but if called upon can name but few of our nationally elected and appointed officials, not to mention local officials?

These questions are hard to answer when you stop to think that government and the people that make it work—are probably some of the most important factors in our lives. For it is these instruments that run our schools, build our highways, make and enforce our laws, regulate our businesses and light our streets at night. And whether you agree with it or not I believe it is this same government of, by and for the people, that prompted a returning POW to proclaim the United States the "greatest country on earth". Yet despite this constant association with government, it is still seemingly out of reach to most of us.

I don't mean to make this sound as though I am preaching or as if I am giving a lecture on citizenship, because to be honest with you, I am probably no more up on the issues or any more knowledgable of government than most of you. But I just could not help but ask myself all these questions and ponder these thoughts as I wrote this speech. I just could not help but ask myself why if we are all so aware of the meaning of government of, by and for the people, does government take a back seat in the minds of most Americans? Is it because we take government so much for granted? Is it because we feel so set apart from government and so limited in our power to control it? Or is it that government just doesn't mean that much to us?

As I considered these questions I began to wonder how I could apply all this to Student Government Days. And just as I had questioned what new meaning I could give to government of, by and for the people, I was now questioning what if anything more could I add to all that has been said about Student Government Days in the past? I asked myself "what can I tell those people that they have not already heard? What can I say that won't just bounce off the walls and go in one ear and out the other?" I didn't have any quote to get me going this time so I had to think a little while, then I thought "what good does it do to have a Student Government Day if we students are just going to take what we have learned today and put it on a shelf somewhere in the back of our mind only to let it sit there until next year at this time, when if we have not yet graduated we can take it down from the shelf, dust it off and make some use of it for a day? Or if we are seniors, what are we to gain by just taking the knowledge we have obtained today and putting it on that shelf for good and letting it go at that.

I also questioned myself on how I can expect to give a complete and meaningful speech if I am directing it toward only about one-third of my audience. What about the mothers and fathers and brothers and sisters, what are they gaining from this speech if I am only talking about Student Government Day to students? But I am not just talking to those high school students in the audience. I am talking to everyone from the cooks in the kitchen to Senator Abourezk seated at this table. For in reality are not we all students, in a sense, students of government? And why is Student Government Day just March 12, why can't every day in a sense be a Student Government Day? Why can't this learning and awareness process be a never ending part of our lives as natural as waking in the morning and sleeping at night? For isn't this what government of, by and for the people is all about? People, all students who are daily making at least some effort to become more aware of their government. What I am driving at is that government, by merely existing requires a constant learning process, and a constant awareness. And that this learning process is not meant just for those high school sophomores, juniors and seniors involved in Student Government Day. It is meant for every American, every day.

If you stop to think about it the United States can be our school and the City of Yankton our class room. Our text books are newspapers and magazines and we are even fortunate enough to have audio-visual aids, radio and television. And by taking a few extra minutes each day to read more of the newspaper than just the comics and Ann Landers and to occasionally watch and listen to the news instead of switching the channel we can all be involved in the greatest individualized instruction since Sesame Street.

In closing, I feel that what this whole speech comes down to is that if we as a nation hope to maintain this great concept of government of the people, by the people, and for the people and not just let it slip into something that only idealists believe in, we must be willing to put forth more of an effort than just a passive acknowledgment of government and what it means to us. Because after all the speeches have been made and all the articles have been written I think that what it all boils down to is a simple case of "actions speaking louder than words". For although the task is not difficult, we all must be willing to put forth our fair share in order to keep the "greatest nation on earth" just that.

GOLDA MEIR

Mr. PERCY. Mr. President, May 3 will mark the 75th birthday of Golda Meir, Prime Minister of Israel. The life of this most remarkable and talented leader that many of us have been privileged to know, love, and admire, began in Russia under the shadow of the pograms and has spanned three continents.

Throughout her working life, Golda Meir has devoted herself to seeking a better and more secure future for her

people, and for the State of Israel, in whose history she has played such an important role. It is appropriate that a person of her outstanding caliber and dedication should occupy Israel's highest office.

Mr. President, the January 1973 issue of Hadassah contained an interview with Golda Meir by Elie Wiesel. I ask unanimous consent that excerpts from this interview, which provides a warm and illuminating insight into Golda Meir and her place in history, be printed in the RECORD.

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

[An interview with Elie Wiesel]

GOLDA AT 75

ELIE WIESEL. Madame Prime Minister, I have been asked truly the most terrifying question in my life. And the terrifying question was: Have I ever, ever doubted the continuity of Israel. Did I ever believe that at one point the history of the Jewish people would come to an end?

It was hard for me to answer. Did you ever have any doubts?

GOLDA MEIR. No. No, I didn't. There was never a doubt that the Jewish people would go on. And there was never a question of its connection with the Land of Israel.

The fact is that for any Jewish child brought up in Eastern Europe there was no day in which there was no Jewishness, no connection with the Jewish people. . . . We were always the objects of discrimination, of pogroms. The first thing I remember in my life was the preparation of a pogrom in Kiev. The pogrom was against Jews—it was against me.

So there was the consciousness that I was Jewish, and different from all the other children in the yard. There was no pogrom against them. Their fathers were not nailing boards to the door—only my father.

Two things went together: this consciousness that we're different and not wanted, being hurt—and the fact of not giving in. Because the next thing I remember—one of the first memories of my life—is of my older sister joining a movement of self-defense against pogroms.

ELIE WIESEL. During the night—what we call night—during the Holocaust—I remember as a child, when I saw for the very first time all those trains unloading. I cannot tell you if I did not have this thought that perhaps this is the end, not only of the Jewish people, but of man.

GOLDA MEIR. That's different. I never conceived of the existence of man, the existence of the world, the existence of civilization—and Jews out of it.

Even during what you call the night, the Hitler period with the sorrow and the fear, there was immediately action taken. I remember we then met in the Histadrut, and we immediately thought, "What can we do, first of all, to let them know that we know and we're doing something about it. And second, we need to do something.

I remember distinctly we decided somebody should go to Ankara and try from there all kinds of ways that didn't make much sense, I suppose (but they worked), to make contact with them—until we finally sent parachutists down to them. There was no such thing as giving in to sorrow, or to tragedy, or to danger. The immediate reaction was, "This is the situation. It looks terrible, it looks hopeless, but something must be done immediately."

ELIE WIESEL. Did you believe the report? When the first reports came out, I had doubts.

GOLDA MEIR. We believed them immediately. I remember when we first got the reports about the gas chambers, about the soap from the fat of Jewish bodies and so on, there was a big demonstration in Tel Aviv. The next day I had to see a British official—in connection with my work in the Histadrut—a very fine person. And we began talking about this big demonstration.

He looked at me, and he said: "Tell me, do you really believe it?" He remembered the atrocity propaganda from the First World War. But to us it wasn't atrocity propaganda. We believed it.

ELIE WIESEL. That's very strange because I did not. I remember when I came there, and I was in it, it took me many, many days to believe it.

GOLDA MEIR. You were a child. We took Hitler seriously from the very beginning. In 1933, when he came into power, I happened to be in the United States, and a very large demonstration of Jews was organized—because we took it seriously.

But this is something that Jews have learned throughout their history, that when a man or a group makes it their program to kill Jews, no matter how outlandish it sounds, we believe it.

ELIE WIESEL. You once told me something very profound. You said you do not feel guilty for what you have not done during the Holocaust. But then you said, you feel guilty because you were not there. What do you mean by that?

GOLDA MEIR. Well, I don't know whether one can explain it—but we were more or less safe, although there was a time when Rommel was practically on our doorstep with his army. We didn't run away. It isn't as though we were there and ran away. But there's a feeling that, at a time of such tragedy, one should have been part of it. And if you weren't, well—it's as though you weren't where you should have been. I can only give one more example which also is pretty terrible.

We have wars—to my sorrow—and I meet fathers and mothers who have lost their sons. At a certain point I have a little feeling also of being guilty that a tragedy like that did not happen to me. It isn't as though my children were not in it. But there's such an abyss between parents that lost their sons and those that did not, that one who's among the fortunate ones feels indebted to them, as though he is to blame for something. Which doesn't make sense, of course, I'm not at fault—but still there is an indebtedness.

ELIE WIESEL. Did you go back to Kiev?

GOLDA MEIR. No I never did, because when I came to Moscow in 1948 [as Israel's Ambassador to the USSR], one needed a special permit to travel to Kiev. And I thought, we'll get settled first and I'll go later. But then I was recalled after our first elections to join the Cabinet, and I'm sorry I didn't go. Not that I have clear recollections of anything—I left Kiev when I was five . . .

ELIE WIESEL. Do you remember it?

GOLDA MEIR. Practically not. I remember Pinsk, the city that we came to after Kiev, because I left Pinsk for the U.S. when I was eight. I remember my grandfather's home . . . facing the church. During the First World War, Jewish men, forty of them, were lined up near the wall of the church and shot. So, whenever I think of it, I think of these men. Many from Pinsk are here in Israel—for instance, our Minister of Agriculture. It just happened that he wasn't among them. But some of his very close friends were among them.

I don't say that I have no happy memories, but I think everyone in my generation that was brought up in Eastern Europe has some recollections of tragedy.

ELIE WIESEL. When did you first come to Jerusalem?

GOLDA MEIR. Well, we arrived in the country in July 1921. About two weeks we were in Tel Aviv and got settled, and then we came to Jerusalem. Jerusalem, naturally, wasn't what it is today, but we didn't go to the new Jerusalem first. We went directly to the Old City, to the Wailing Wall.

Although I . . . knew what the Wall was, and what it represented, I cannot honestly say that on my way to the Wailing Wall I was very emotional. I suppose I pictured it more or less as a monument. Until I got there. Then everything changed. And then everything made sense. I had heard, of course, that men and women—old people primarily—put little pieces of paper with wishes on them in the cracks of the Wall. I can't say that it had made much sense to me.

ELIE WIESEL. Did you do it?

GOLDA MEIR. I did. I mean, all of a sudden, it made sense. All of a sudden, to me this was the symbol of our struggle, of having been driven out from this country. But this remained, the Wall was there as a fortress of guarantee that the land will be there when the Jews come back.

To me it was everything. It is almost something alive. And if it's alive, then you talk to it, you have contact with it.

ELIE WIESEL. What did you write on the slip of paper you inserted in the Wall?

GOLDA MEIR. I wrote then that—this country should be rebuilt. And the next time I put in a piece of paper was two days after Jerusalem was liberated in 1967. Jerusalem was liberated on Wednesday—I came early Friday morning. There was still sniping in the streets. I knew that the parachutists who were fighting for Jerusalem had many, many casualties. Mainly because the Jordanians had their guns on the roofs of churches and so on, and our men were under strict orders not to shell . . .

ELIE WIESEL. Holy places.

GOLDA MEIR. . . . to preserve the holy places. So it was a face-to-face struggle, and they lost many men. Civilians were not yet allowed into the city, but I was leaving that same morning for New York, and the general in charge went with me to the Wall.

It wasn't as it is today. You remember it—there was that little alley, and you had to go through yards and so on. And then I saw again something at the Wall that I'm not capable of describing.

There was a table . . . on it were Uzi submachine guns. . . . Four or five parachutists, with prayer shawls over their uniforms, were praying at the Wall. That's how I found them.

Every once in a while another one would come running in. This was their first chance to get to the Wall . . . and these heroes, they wept like babies.

For many of them, it was the first time that they had been near the Wailing Wall, because they were born after . . . the Old City (came) under Jordanian rule. Here were these men who were strong and determined, and victorious—but when they met up with the Wall they broke down.

And then, it was so natural—I took a piece of paper. This time I wrote *shalom*, peace, and put it in the Wall.

ELIE WIESEL. And then a young man came up.

GOLDA MEIR. And one of them—he wept near the Wall as though he would leave his heart there. And he turned around, still with his machine gun, and saw me. I'm not sure that he knew who I was. At any rate, I didn't know him, certainly. All of a sudden he just walked up to me, put his head on my shoulder and really wept like a baby. And I thought, with all this heroism, and with all this, at this moment he felt he needed a mother, to cry on her shoulders. I also cried a little bit, I must admit.

It was a privilege to have my shoulder ready for this boy who wept after all that he had gone through. It's one of my most shattering experiences. . . . They were such wonderful, wonderful men.

ELIE WIESEL. Did you see him again?

GOLDA MEIR. No. I have no idea who he is.

ELIE WIESEL. Is he alive?

GOLDA MEIR. Oh, I hope so. I mean, he came out alive from that battle. I hope nothing happened to him after that. You see. I have a picture.

ELIE WIESEL. Yes?

GOLDA MEIR. I never take photographers with me, but my secretary went with me. I had no idea that he had a camera. That morning I left for New York; from Jerusalem I went directly to the Lod Airfield. When I came back from the United States, he showed me the picture.

ELIE WIESEL. Madame Prime Minister, when you were in Moscow as Israel's First Ambassador to the Soviet Union—and you happened to be chosen by destiny or by Jewish history to see those thousands of eyes that later haunted me, and still do—did you ever think that one day you would see the Jews of Russia here?

GOLDA MEIR. Those were the days of the honeymoon between us and the Soviet Union. They had voted for us in the United Nations and made great speeches: how just it was that Jews should have a state of their own, and so on. But we had no idea what we would meet as far as Jews were concerned. We had had no contact with them since the Revolution.

I said to the men on my staff: "Look, bring prayer shawls if you have them. If not, get some of the books that I brought for services. And the first Saturday after we have presented our credentials we will go to the synagogue."

We went, and there were a hundred, maybe a hundred and fifty, old Jews there. That was in August. Then came the High Holy Days.

A few days before Rosh Hashana, Ilya Ehrenberg wrote a big article in *Pravda*, saying that if not for Stalin there wouldn't be a Jewish State, and so on, and so on. "But let there be no mistake," he said, "the State of Israel has nothing to do with the Jews in the Soviet Union. In the Soviet Union there is no Jewish problem and they don't need the State of Israel. Israel is for Jews in capitalistic countries where there is anti-Semitism. Besides, there is no such thing as a Jewish people—that's ridiculous. It's as though one said that everybody that had red hair belongs to one people."

The Jews in Moscow read this just before the holidays, and they understood. . . . They read between the lines. It was a warning to keep away from us.

As we came up the main street to that narrow street going to the synagogue, we stood still. The street was packed, just one ocean of people. And one Jew came up to my counsellor, Namir, and said to him: "This is the answer of Moscow Jewry to Ehrenberg's article."

And when I came out, and stood in this ocean of men and women—some in Red Army uniforms—I can't say I knew that after twenty years I would see many of them here. But one thing I knew, the Soviet Union had not succeeded in breaking the spirit of the Jews.

What I feared was that they would find some other solution, and I reported that to my colleagues when I came back. Either they will let them . . . come here, or they will do something terrible, brutal, cruel. If Stalin had lived, I think it would have been the brutal solution. I had a nightmare that one morning I'd get up and read in the paper that tens of thousands of Moscow Jews had volunteered to go to Birobidjan. That to me was a nightmare.

But I knew that Russia, with all its power, had failed. Jews remained Jews.

ELIE WIESEL. Madame Prime Minister, are you happy?

GOLDA MEIR. Of course.

ELIE WIESEL. I mean happy with what's happening to our people?

GOLDA MEIR. Look, despite all that's happened, here we are, in the twenty-fifth year of a state that is independent and free, with over two and a half million Jews. There are countries where Jews have suffered, mainly the Arab countries, and we've brought practically all their Jews here.

I saw the Jews come in from Yemen, or from the Atlas Mountains of Morocco, and I see them now, the generation that was born here. Yemenite children came with their eyes—those big, black, beautiful eyes—full of fear. They were so undernourished that children of four could not stand up. And you see them now, tall and strong and free and fearless.

They've become good farmers, excellent farmers. They work in the factories, and they go to school, and they're in the universities, and they are teachers, and they're excellent soldiers when it's necessary to fight. And it's the same with Jews from Morocco and Jews from Libya—from the caves of Libya they came to us.

Of course, there are problems and there are worries. And there are still wars, and of course that's the worst of all. Imagine what we could have done if we didn't have to fight wars. But how can one not be happy when he has lived to see this?

ELIE WIESEL. How do you manage to go on and on and on, aware that the Arabs don't want peace, and still speak about reconquering Jerusalem? What is your secret?

GOLDA MEIR. Look, I can't say I'm sure that the war is not over. That wouldn't be honest. We hope so, but that depends upon them.

I am convinced, absolutely, that if there's another war we will win again. The heartbreaking thing is, it means more people dead, not only on our side, but on the other side. I don't believe that an Egyptian mother cares less for her son than a Jewish mother cares for hers. Jewish mothers had their hearts broken, but they knew what their sons were fighting for. They were fighting for our life, for our very existence. What are the Egyptian sons fighting for? To destroy us?

Because it is so cruel, so senseless, and so hopeless to aspire to "throw us into the sea," it must stop. We are doing everything we can; it is a most terrible thing to send men to war.

But despite this tragedy of wars and fighting and so on, everything is growing. Everything is growing.

COAL SURFACE MINING AND RECLAMATION

Mr. METCALF. Mr. President, the Committee on Interior and Insular Affairs began holding hearings on surface mining legislation today and will continue through Friday. Enactment of legislation to regulate surface mining is an urgent national priority.

In order to get better data, Chairman JACKSON last November asked the Council on Environmental Quality to lead an interagency study of the environmental, social, and economic impacts of surface mining regulation. That study has just been received and will be printed as a committee print. Since that print will not be available during the hearings, I ask unanimous consent that the summary of the report be printed in the RECORD.

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

COAL SURFACE MINING AND RECLAMATION

SUMMARY

This report analyzes the environmental impacts and alternatives for reducing adverse impacts from surface mining of coal; it does not analyze surface mining or reclamation requirements for other minerals.

Background

Surface mining, in which the overburden is stripped away to expose and then remove the underlying coal deposit, can be divided into two general types—area mining and contour mining. Area mining is practiced in relatively flat to gently rolling terrain. Contour mining is practiced where deposits occur in hilly or mountainous country. Augering—drilling horizontally into a coal seam—is usually used in conjunction with contour mining on steep slopes to increase the coal recovery rate.

As of 1972, 4 million acres of land had been disturbed by surface mining; of this, over half was unreclaimed. Twenty thousand miles of highwalls remain, and the water quality of thousands of miles of streams and thousands of acres of lakes has been severely degraded. This disruption of wildlife habitat and impairment of aesthetic and recreational values increases as mining continues to be inadequately controlled.

Surface mining techniques—Effects and control costs

Although environmental damage from surface mining has been severe, it is not an unavoidable consequence of all forms of surface mining. High levels of control can substantially reduce adverse environmental impacts in most areas. The types and severity of environmental damage depend not only on the mining method used, but also on the level and timing of the reclamation which follows. Table I contrasts in a subjective way the environmental effects of the different surface mining techniques because actual quantitative data are not available to measure differences in environmental impacts among mining techniques or to measure the significance of such differences. Actual impacts from a given surface mine depend on conditions specific to the site.

TABLE I.—ESTIMATED ENVIRONMENTAL EFFECTS OF COAL SURFACE MINING

[Scale for severity of environmental indicators: [1] 3=Severe adverse impact; 0=Negligible adverse impact]

Mining technique [2]	Water			Air pollution (dust)	Land use (adjacent land impact and precluded land use	Health and safety (landslides and flooding)	Wildlife habitat and disruption	Esthetics (highwall and vegetation)	Total [4]
	Surface pollution	Ground water	Changed water courses						
Area mining:									
Without reclamation	1-2	0-1	1-3	2-3	2-3	0	1-2	2-3	9-16
With reclamation [3]	0-1	0-1	0-1	1	0	0	0	0	1-4

Footnotes at end of table.

TABLE I.—ESTIMATED ENVIRONMENTAL EFFECTS OF COAL SURFACE MINING—Continued

[Scale for severity of environmental indicators:[1] 3=Severe adverse impact; 0=Negligible adverse impact]

Mining technique[2]	Water			Air pollution (dust)	Land use (adjacent land impact and precluded land use	Health and safety (landslides and flooding)	Wildlife habitat and disruption	Esthetics (highwall and vegetation)	Total[4]
	Surface pollution	Ground water	Changed water courses						
Contour mining (spoils on downslope):									
Conventional contour strip	3	0–1	2–3	2–3	3	3	1–3	3	17–22
Contour strip with spoils shaping	1–3	0	2–3	2–3	2–3	1–3	1–2	2–3	11–20
Contour strip with terrace backfilling	1–2	0	0–2	1–2	1–2	1–2	1–2	0–1	4–13
Contour strip with contour backfilling	1	0	0–1	1–2	0–1	0–1	1	1	3–8
Augering from narrow bench	1–3	1–3	0–1	0–1	1–2	0–1	0–1	1	3–12
Contour mining (no spoils on downslope):									
Modified block cut	1	0	0	1	0	0	0–1	0–1	2–4
Long wall surface	0–1	1–2	0	0–1	0–1	0	0	0	1–5
Augering with backfilling	0–1	1–2	0	0–1	0	0	0	0	1–4

[1] Indicators are for both temporary and pervasive impacts.

[2] Head of hollow hill technique is not rated here because its environmental effects also depend on the techniques(s) for which it serves as a supplemental method for spoil disposal.

[3] This ranking is for area mining in the Eastern and Central coal regions with adequate rainfall for vegetation. Area mining in the Far West may well be unacceptable unless vegetation can be reestablished.

[4] Aggregating environmental parameters into a single index is difficult and often involves value judgments with respect to relative importance of the factors involved. These totals assume equal weighting of environmental impacts. Use of other weights could alter the ranking of the techniques.

For contour mining, several mining techniques can provide concurrent reclamation with minimal disturbance and environmental impacts on adjacent lands. One technique, the modified block-cut, although not applicable to all sites, incorporates reclamation as an integral part of the mining operation. Lands are reclaimed during mining by backfilling the previously worked area with newly removed overburden. Except for the initial cut, spoils are not deposited on the downslopes, and the land is almost immediately restored to its original contour. As a result, landslides, water pollution, aesthetic blight, and other environmental effects are reduced, although disruption during the active mining operation cannot be completely avoided. Although not widely used now, it offers one promising approach to reduce environmental effects in many, although certainly not all areas. Auger mining—drilling directly into a mountain, usually in conjunction with other contour mining—also minimizes environmental damage when continuous reclamation is practiced. Other mining techniques, properly carried out on appropriate sites, can produce substantially similar levels of environmental impacts.

Costs of reclamation depend on the character of the desired reclamation, on soil characteristics, local cost factors, coal seam and overburden thickness; rainfall, and the like. Table II contrasts total and incremental reclamation costs for the demonstrated contour mining techniques summarized in Table I. This analysis assumes a given slope and coal seam thickness. Both total costs and incremental costs would be different under other conditions. The combination of some of these techniques with augering could substantially change both the incremental cost per ton and possibly the relative costs of the different reclamation techniques. Total costs of reclamation for contour strip mining are $.39 per ton for basic reclamation (shaping and revegetation of spoil banks) and $.56 per ton for a higher level of reclamation by the modified block-cut method. Other reclamation techniques such as terrace or contour backfilling—which would require pulling spoil back up the downslopes—would cost more than the modified block-cut in achieving similar reclamation.

TABLE II.—ESTIMATED COSTS OF MODELS OF CONTOUR STRIP MINING AND RECLAMATION APPROACHES[1]

[In dollars per ton]

Type and degree of reclamation	Production costs[2]	Incremental reclamation costs	Incremental reclamation costs above minimum now required[3]
No reclamation (conventional)	3.90	----------	----------
Shaping of spoil bank[3]	4.29	0.39	----------
Terrace backfilling	4.59	.69	0.30
Contour backfilling	4.85	.95	.56
Modified block-cut	4.46	.56	.17
Augering from narrow bench	3.45	----------	----------
Augering with backfilling[4]	3.51	.06	.03

[1] These cost estimates are for a hypothetical mine, using common assumptions with respect to key variables such as slope, bench width, coal seam thickness, etc. See ch. 1 and app. E for details.

[2] Does not include coal cleaning, freight, or profits.

[3] Shaping of spoil bank required in all major Appalachian mining States.

[4] Assumes complete backfilling of bench, but only plugging of the 1st few feet of the auger hole.

Given that most Appalachian states currently require shaping of spoil banks, the estimated incremental cost per ton of coal with complete reclamation would be $.17 per ton using the modified block-cut technique and $.56 per ton using contour backfilling. These cost increases represent 3% to 9% of current coal prices at the mine. Actual price impacts could be different depending on many factors such as elasticity of demand or industry pricing policies.

Impact of slope angle prohibitions on coal production and reserves

Because most mining on steep slopes is located in Appalachia, the impacts on production and reserves would be greatest in that area. Central and western United States coal reserves and production usually underlie relatively flat terrain.

There were no existing data on surface coal mining production and reserves as a function of slope angle. Methodologies were developed to determine these distributions in Appalachia, and the data are summarized in Tables III and IV.

TABLE III.— URFACE MINE PRODUCTION IN APPALACHIA AS A FUNCTION OF SLOPE ANGLE, 1971

[In millions of tons]

State	Total	0–10°	10°–15°	15°–20°	20°–25°	25° plus	Underground mine production, 1971
Alabama	11.09	4.66	1.55	1.77	1.77	1.33	6.75
Kentucky (eastern)	33.10	0	.60	4.20	7.65	20.65	32.99
Maryland	1.47	.43	.66	0	.38	0	.14
Ohio	38.11	4.08	8.00	15.08	6.39	4.56	12.86
Pennsylvania	25.76	10.73	9.89	3.63	1.04	.48	44.29
Tennessee	5.34	.40	.13	.71	1.71	2.40	2.65
Virginia	9.00	0	.08	.20	.83	8.07	21.63
West Virginia	31.92	1.83	4.43	2.71	8.43	14.46	78.76
Total	155.79	22.13	25.34	28.30	28.20	51.95	200.07
Percentage	100.0	14.2	16.3	18.2	18.1	33.3	----------

TABLE IV.—STRIPPABLE RESERVES IN APPALACHIA AS A FUNCTION OF SLOPE ANGLE

[Millions of tons]

State	Total	0–10°	10°–15°	15°–20°	20°–25°	25° plus	Total deep reserves in Appalachia
Alabama	169.84	124.79	16.42	13.19	10.04	5.40	12,774
Kentucky (eastern)	766.52	44.80	38.84	106.36	219.36	357.16	37,639
Maryland	27.27	25.17	1.71	.26	.13		1,117
Ohio	1,334.01	961.04	256.44	102.92	13.42		36,505
Pennsylvania	1,293.48	1,116.24	161.34	10.16	3.42	2.45	66,011
Tennessee	135.66	75.85	8.51	22.24	24.26	4.80	2,094
Virginia	226.86			32.06	131.78	63.02	8,324
West Virginia	2,507.01	364.52	592.04	475.87	608.86	465.72	90,059
Total	6,460.65	2,712.41	1,075.30	763.06	1,011.27	898.55	254,523
Percentage	100	42.0	16.6	11.8	15.7	13.9	

The impact of a slope prohibition on production depends on the extent to which alternative sources of coal production substitute for the production lost on steep slopes. These alternatives include underground mining and shifting to less steep slopes. There are a number of constraints to such shifts including land availability and production lead time, capital availability, and matters of concern to labor such as job location, working conditions, and health and safety factors.

Tables V and VI summarize three possible impacts on production in Appalachia from prohibitions of surface mining on slopes greater than 15° and 20°. The high impact case assumes that all production on steep slopes is not replaced by other surface or underground mining. The low impact case assumes all steep slope production outside of central Appalachia is shifted to less steep slopes. In central Appalachia, production losses from precluding mining on steep slopes would only partially be made up by a 10 percent increase in underground mining and a small amount of shifting to less steep slopes. The medium impact case assumes that steep slope production is shifted to less steep slopes outside central Appalachia, with the exception of that conducted by small miners. In central Appalachia, it assumes no surface mining on less steep slopes but a 5 per cent increase in underground production.

TABLE V.—NET PRODUCTION LOSS FOR A 15° SLOPE ANGLE PROHIBITION, 1971

[In million tons per year]

Region and economic area	High impact case	Middle impact case	Low impact case
Northern Appalachia:			
11. Williamsport, Pa	2.81	0.72	0
66. Pittsburgh, Pa	15.12	3.11	0
68. Cleveland, Ohio	6.20	1.24	0
64. Columbus, Ohio	9.03	1.80	0
65. Clarksburg, W. Va	7.64	.31	0
Subtotal	40.80	7.18	0
Central Appalachia:			
52. Huntington, W. Va.–Ashland, Ohio	25.45	22.18	12.54
53. Lexington, Ky	15.56	15.07	14.58
51. Bristol, Va	10.09	8.26	6.52
50. Knoxville, Tenn	11.60	11.40	8.31
Subtotal	62.60	56.91	41.95
Southern Appalachia:			
49. Nashville, Tenn	0	0	0
48. Chattanooga, Tenn	.46	.01	0
45. Birmingham, Ala	4.42	.13	0
Subtotal	4.88	.14	0
Total	108.28	64.23	41.95

TABLE VI.—NET PRODUCTION LOSS FOR A 20° SLOPE ANGLE PROHIBITION, 1971

[In million tons per year]

Region and economic area	High impact case	Middle impact case	Low impact case
Northern Appalachia:			
11. Williamsport, Pa	0.77	.20	0
66. Pittsburgh, Pa	6.33	1.39	0
68. Cleveland, Ohio	5.75	1.15	0
64. Columbus, Ohio	0	0	0
65. Clarksburg, W. Va	7.26	.29	0
Subtotal	20.11	3.03	0
Central Appalachia:			
52. Huntington, W. Va.–Ashland, Ohio	24.70	9.08	[1] (6.55)
53. Lexington, Ky	15.56	15.07	14.58
51. Bristol, Va	9.81	8.06	6.32
50. Knoxville, Tenn	6.69	4.82	2.96
Subtotal	56.76	37.03	17.31
Southern Appalachia:			
49. Nashville, Tenn	0	0	0
48. Chattanooga, Tenn	.39	.01	0
45. Birmingham, Ala	2.81	.08	0
Subtotal	3.20	.09	0
Total	80.07	40.15	17.31

[1] Gain.

A 15° prohibition would preclude production of between 42 and 108 million tons annually, representing between 27% and 70% of Appalachian surface mine production, 11% and 39% of total surface production, or 7% and 18% of total U.S. production. A 20° slope angle prohibition would affect between 17 and 80 million tons annually, representing between 11% and 51% of Appalachian surface mine production, 5% and 20% of total surface production, or 3% to 14% total U.S. production. The immediate production losses from a ban on steep slopes could approximate the larger quantity in each case. The period of maximum loss would depend on the time necessary to expand production from deep mines or from surface mines on less steep slope. This analysis dealt only with production losses in Appalachia and does not take account of possible substitution of coal production in other areas of the country, domestic production of other fossil fuels, or imports of petroleum products.

An important amount of the coal production that would be precluded by slope limits is low in sulfur and ash. This coal is not only valuable for steel production and export, but has become increasingly important to meet the requirements of the Clean Air Act. Appalachian surface mines produce about 30% of all low sulfur coal used in electric power plants. In central Appalachia, which supplies 23 percent of utility low sulfur coal needs, virtually all of this surface mined coal is produced on slopes greater than 20°.

In Appalachia 41% and 30% of total strippable reserves would be lost with 15° and 20° slope angle prohibitions, respectively. Because the overwhelming majority of U.S. reserves is recoverable only by underground mining and because of large and as yet untapped reserves in the West, the loss of reserves from a slope angle prohibition represents under 1% of the total reserves physically available.

Regional economic impact of slope angle prohibitions

Although conditions are improving, Appalachia remains an economically depressed area. Many parts of the region are highly dependent on all coal mining for their existence—over 95% of basic earnings in some counties. Unemployment and poverty levels are high, and per capita income lags behind the rest of the country. While much of Appalachia is shifting to a more diversified and viable economic base, nonetheless, pockets of severe economic depression remain.

The direct economic impacts of a 15° and 20° slope angle limitation on Basic Economic Areas in Appalachia are summarized in Tables VII and VIII. Although not definitive, these data indicate that a 15° or 20° angle prohibition would not have an appreciable economic impact in major sections of northern and southern Appalachia. The impact however, could be significant in nearly all of central Appalachia and especially in those Appalachian counties where coal mining is a major source of employment and few alternative employment opportunities exist. The direct earnings and employment impacts in selected counties in central Appalachia could be severe. The total economic impact on each area and county would be even greater taking into account secondary income and employment effects. Because adjacent areas, already depressed economically, may be experiencing the same economic dislocations, the number of jobs outside these selected counties may also be limited. This report does not analyze offsetting economic effects outside Appalachia or secondary economic impacts.

TABLE VII.—DIRECT ECONOMIC IMPACT OF 15° SLOPE ANGLE PROHIBITION

Economic area	Baseline economic data: Unemployment rate March 1970	Baseline economic data: Percent families below poverty level (1969)	Baseline economic data: Percent of national per capita income (1967)	Scenarios: High impact: Percent basic earnings loss	High impact: Employment loss: Percent	High impact: Employment loss: Number	Medium impact: Percent basic earnings loss	Medium impact: Employment loss: Percent	Medium impact: Employment loss: Number	Low impact: Percent basic earnings loss	Low impact: Employment loss: Percent	Low impact: Employment loss: Number
11. Williamsport, Pa.	5.1	9.9	84	0.9	0.3	490	0.2	0.1	126	0	0	0
66. Pittsburgh, Pa.	4.5	8.8	97	.4	.1	1,588	.1	(1)	344	0	0	0
68. Cleveland, Ohio	3.8	6.8	105	.2	.1	987	(1)	(1)	177	0	0	0
64. Columbus, Ohio	4.2	9.5	92	.5	.1	763	.1	(1)	160	0	0	0
65. Clarksburg, W. Va.	4.8	17.1	73	5.0	1.5	1,527	.2	.1	55	0	0	0
52. Huntington, W. Va.-Ashland, Ohio	5.9	21.2	73	3.8	1.2	4,698	2.6	.9	3,168	.4	.1	453
53. Lexington, Ky.	4.6	24.1	68	2.6	.9	2,080	2.3	.8	1,829	2.0	.7	1,577
51. Bristol, Va.	5.3	21.3	71	2.1	.6	1,477	.9	.3	640	[2] (.3)	[2] (.1)	[2] (199)
50. Knoxville, Tenn.	5.3	23.4	67	1.9	.6	1,523	1.7	.5	1,353	1.0	.3	801
49. Nashville, Tenn.	3.8	17.9	78	(1)	0	0	0	0	0	0	0	0
48. Chattanooga, Tenn.	[3]	17.0	[3]	[3]	(1)	64	(1)	(1)	2	0	0	0
45. Birmingham, Ala.	4.5	20.0	75	.4	.1	588	(1)	(1)	15	0	0	0
Total						15,785			7,869			2,632

[1] Nil. [2] Gain. [3] Not available.

TABLE VIII.—DIRECT ECONOMIC IMPACT OF 20° SLOPE ANGLE PROHIBITION

Economic area	Baseline economic data: Unemployment rate (March 1970)	Baseline economic data: Percent families below poverty level (1969)	Baseline economic data: Percent of national per capita (1967)	Scenarios: High: Percent basic earnings loss	High: Employment loss: Percent	High: Employment loss: Number	Medium: Percent basic earnings loss	Medium: Employment loss: Percent	Medium: Employment loss: Number	Low: Percent basic earnings loss	Low: Employment loss: Percent	Low: Employment loss: Number
11. Williamsport, Pa.	5.1	9.9	84	0.3	0.1	134	0.1	(1)	35	0	0	0
66. Pittsburgh, Pa.	4.5	8.8	97	.2	.1	729	(1)	(1)	153	0	0	0
68. Cleveland, Ohio	3.8	6.8	105.	.2	.1	917	(1)	(1)	183	0	0	0
64. Columbus, Ohio	4.2	9.5	92	0	0	0	0	0	0	0	0	0
65. Clarksburg, W. Va.	4.8	17.1	73	4.8	1.4	1,451	.2	.1	58	0	0	0
52. Huntington, W. Va.-Ashland, Ohio				3.7	1.2	4,487	.6	.2	709	[2] (2.6)	[2] (.8)	[2] (3,070)
53. Lexington, Ky.	4.6	24.1	68	2.6	.9	2,080	2.3	.8	1,828	2.0	.7	1,578
51. Bristol, Va.	5.3	21.3	71	2.1	.6	1,450	.9	.3	612	[2] (.3)	[2] (.1)	[2] (226)
50. Knoxville, Tenn.	5.3	23.4	67	1.0	.3	818	.6	.2	444	.1	(1)	68
49. Nashville, Tenn.	3.8	17.9	78	0	0	0	0	0	0	0	0	0
48. Chattanooga, Tenn.	[3]	17.0	[3]	[3]	(1)	41	[3]	(1)	1	0	0	0
45. Birmingham, Ala.	4.5	20.0	75	.3	.1	374	(1)	(1)	11	0	0	0

[1] Nil. [2] Gain. [3] Not available.

State regulatory activities

The results of a survey of surface mining laws and regulatory programs in 16 major coal-producing states indicates a progression toward more stringent controls to reduce the environmental damages from surface mining. It is clear, however, that there is a need for further strengthening of the individual state programs. Some states now require concurrent reclamation, but only two also require reshaping to the approximate original contour, or other similarly appropriate condition, for other than area mining. In only a few states have performance standards been adopted for reclamation. Despite an increase in use and amounts of performance bonds, their levels are still generally set at flat rates, unrelated to actual reclamation costs, which frequently exceed such rates. They are usually cancelled shortly after reclamation stops, although environmental damage may continue thereafter or first occur at some future time. Manpower and funds for enforcement of state programs do not appear generally adequate.

Any regulatory program can only be judged by its results. The new laws that have been enacted are too new to judge their results, but in general experience under previous laws has not been good. Unless stronger programs are instituted and carried out, more land will predictably be left damaged by surface mining.

Elements of effective environmental controls

Our findings in this report indicate that at the least three elements of regulatory programs are necessary to protect environmental quality during surface mining operations. First, adequate planning, through the careful preparation and analysis of mining and reclamation plans, is required. These plans should be prepared and analyzed before mining begins to assure that operations will result in the achievement of minimal environmental damage. If difficulties are identified, then the plan can be appropriately modified. Second, specific performance standards are necessary so that miners can choose the most effective techniques to meet them. It is clear that some methods such as the modified block-cut and augering with backfilling can reduce environmental abuse at costs that are small relative to those of other methods for achieving similar results and relative to total coal production costs. Third, there must be sufficiently vigorous enforcement of regulatory programs. Often, in the past, the results of enforcement programs were not satisfactory for a number of reasons. The performance standards did not require an adequate level of reclamation. Earlier reclamation requirements were subject to such broad interpretation that their achievement was often a matter of unnecessary contention between the mine operator and the inspector. And, enforcement did not have behind it adequate performance bonding, manpower, or funding to achieve the desired performance. With stringent, unambiguous performance standards that require reclamation concurrent with mining, it will be easier to judge the adequacy of reclamation performance in each particular case.

In the absence of any one of these three components—adequate planning, adequate performance standards and adequate enforcement—experience indicates that efforts to curb environmental and other damage from surface mining will not be truly successful.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

PUBLIC HEALTH SERVICE ACT EXTENSION OF 1973

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1136, which will be stated by title.

The Assistant Legislative Clerk read as follows:

A bill (S. 1136) to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act.

The Senate proceeded to consider the bill.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

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

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

PUBLIC HEALTH SERVICE ACT EXTENSION OF 1973

The Senate continued with the consideration of the bill (S. 1136) to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act.

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. GRIFFIN. 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. GRIFFIN. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is S. 1136, a bill to extend the expiring authority for the Public Health Service Act and the Community Mental Health Centers Act.

Mr. GRIFFIN. Mr. President, I move that the pending business be referred to the Committee on Labor and Public Welfare with instructions that it be reported back to the Senate within 2 weeks.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Michigan.

Mr. GRIFFIN. Mr. President, by way of explanation, let me say that I commented yesterday about my concern that this legislation, involving an authorization well in excess of a billion dollars, was on the calendar without committee consideration. I believe that orderly procedures in the Senate would indicate that legislation of this importance, should at least have some kind of consideration by the standing committee of the Senate that has jurisdiction.

I am aware of the fact that similar legislation was passed by the Senate in the last Congress. I understand that it is not exactly the same legislation, that there are some additions to it. I also point out the fact that it was the Senate in a different Congress that passed it.

Since I have included in my motion an instruction that the committee report the bill within a reasonable time frame—one which would give interested people an opportunity to testify if they wished to do so, including administration witnesses—I would hope that such a motion would be acceptable to those who have the responsibility for the bill.

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

Mr. GRIFFIN. I am glad to yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think that this is a reasonable motion that is being made by the assistant minority leader. It takes into consideration, I think, the reasons why it is necessary that the Committee on Labor and Public Welfare press forward on this legislation, and the recognition that on June 30 of this year the entire spectrum of legislation included in this proposal will expire, and that therefore we do have a responsibility to proceed quickly.

I think if we are going to give the kind of thoughtful consideration to the administration's proposal that it should have, and hold hearings on these programs, we ought to at least make sure that we are going to have a continuation of the programs, and during the course of this session, will be able to adjust them, change them, or alter them as the course of the hearings may show to be proper. We are running into a deadline though.

I shall have more to say, after we dispose of this particular motion, in connection with the reasons for the sense of urgency and the need for prompt action by the Health Subcommittee; but the proposal of the assistant minority leader, I think, will insure that the Senate will still have a chance to give consideration to this proposal at an early date and it will give us a chance to work with the House of Representatives in conference about these matters for a suitable period of time.

Therefore, I support the motion, and I hope, as chairman of the Health Subcommittee, that during this 2-week period of time we will hear from the Secretary of HEW. I believe a member of the committee staff has already been in touch with him, and he has indicated a willingness to appear before the committee to give it the benefit of the department's best judgment. We will make every effort to proceed in an orderly way within the committee. In any event, we will have the understanding that within 2 weeks this matter will be before the Senate.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. KENNEDY. Does the motion of the Senator from Michigan mean that the bill would be placed on the calendar within 2 weeks, or reported to the Senate?

The ACTING PRESIDENT pro tempore. Those are the instructions of the motion, the Chair would inform the Senator from Massachusetts.

Mr. KENNEDY. So it would be reported back to the Senate itself?

The ACTING PRESIDENT pro tempore. Yes.

Mr. KENNEDY. I think that is entirely acceptable. I think Senators by that time would have the benefit, hopefully, of the Secretary's comments and ideas.

So with that understanding, I support the motion, and urge its adoption.

Mr. GRIFFIN. I thank the distinguished Senator from Massachusetts for his understanding and cooperation.

I, of course, should not preclude in my motion the possibility that the committee may modify the bill. I think I should modify the motion to say, "with or without committee amendments," and I do so modify it.

The ACTING PRESIDENT pro tempore. The bill will be referred to the committee.

Mr. GRIFFIN. I want to emphasis I do not intend to preclude the committee from working its will and possibly amending the bill.

The ACTING PRESIDENT pro tempore. The committee would have that right under the Senator's motion.

Mr. GRIFFIN. Fine. I appreciate that. I particularly appreciate the attitude of the distinguished Senator from Massachusetts. Without regard to the merit of this particular bill I would consider the procedure that would be followed, if we were not to do this, a bad precedent. I would hate to see other measures brought to the Senate floor without following the committee process.

There are very good reasons, as we all know, why bills are ordinarily referred to committees. I am reminded of the fact that the Legislative Reorganization Act provides that no bill shall be scheduled for consideration until the report of the committee has been available for 3 days.

Sometimes by unanimous consent we do dispense with that requirement, but that provision in the Legislative Reorganization Act is a very important one.

Obviously, if we are not even going to send the bill to committee, we are really doing away with the protection that the Senate has tried to provide itself and the public in the legislative process. So I appreciate the support of the Senator from Massachusetts.

Mr. TAFT. Will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. TAFT. I thank the Senator. I am happy to hear that the Senator from Massachusetts has agreed to this course of action.

There is a great deal to this action that I am sure we all recognize in trying to clear up some of the unanswered questions with respect to the future of the various programs that are presently authorized and funded. To have gone the route of simple extension without committee hearings would have been perhaps to forfeit too greatly to the House committee involved; the substantive decisions from which we might not have been able to make any report or make any changes.

I hope that the committee will now have hearings. I am sure that the Secretary of HEW, Mr. Weinberger, who has testified I think three times, so far as his confirmation hearings were concerned, and was under the restriction of not yet being the Secretary concerning what he could say, has also testified for 6 or 7 hours, I believe, before the House Commerce Committee on these subjects, will be available and will be most happy, as he has always been, to come to the Hill and to testify in these areas. I think he will be most helpful when he comes.

I hope the committee will get some sense of the direction in which we ought to be going concerning the very important substantive decisions that we are going to be called upon to make in the health field, either in this bill or other legislation later in session.

The ACTING PRESIDENT pro tem-

pore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. KENNEDY. Mr. President, the Senate will within 2 weeks have an opportunity to consider S. 1136, the Public Health Service Act of 1973 which I introduced last week with bipartisan committee cosponsorship. This bill is cosponsored by 15 of the 16 members of the Senate Labor and Public Welfare Committee, including the ranking minority member of the Health Committee, Mr. JAVITS, the ranking minority member of the Health Subcommittee, Mr. SCHWEIKER, and the former ranking minority member of the Health Subcommittee, Mr. DOMINICK.

Mr. President, I want to briefly describe for my colleagues the provisions contained within the committee's bill, and also describe why it is necessary that it be acted on as quickly as possible. Virtually all of the authority contained in the Public Health Service Act expires June 30, 1973. In order to avert the monumental legislative logjam we now face, the Senate passed legislation extending and including most of these expiring programs in September of last year. That bill, S. 3716, was favorably reported to the Senate by the Health Subcommittee and it was passed by the Senate 78 to 0. Regrettably, companion legislation did not emerge from the House of Representatives. And now only 4 months remain before these programs expire.

Mr. President, the administration has had ample opportunity to express its views to the committee regarding these programs. The administration was invited to testify on several of them on May 17, 1972. The administration refused to testify. The administration in testimony in 1972 on several other of the programs covered by the committee's bill testified in opposition to that legislation. And the administration stated on multiple occasions during its testimony that its legislative recommendations for these programs would be forthcoming with the submission of the President's budget for fiscal year 1974. The budget came up January 29, 1973. And again there were no accompanying legislative recommendations for these health programs. In early February the then Secretary-designate of HEW, Mr. Weinberger, testified before the committee to the effect that he did not know when the administration would be in a position to make its legislative recommendations to the Congress. He testified that he hoped it would be possible for the administration to have them ready in February, or March, or April. Mr. President, with a budget which proposes doomsday for many of these programs July 1, 1973, the Congress cannot sit idly by.

Mr. President, this is a crisis situation. For the first time serious questions have been raised with respect to the effectiveness of several of these programs by the President. To cite several examples the President's budget for fiscal year 1974 proposes the total elimination or radical restructuring of the Hill-Burton hospital program, the allied health training program, the regional medical program for heart, cancer, and stroke, the public health training program, and the community mental health centers program. The plain truth is that the President is in effect legislating via the budget process. Some of the concern the President has with respect to the way in which some of these programs are working is valid. But the point is that the Congress must have an opportunity to work its will regarding the shape of the legislation in this regard. It is quite clear that it is not possible for the Congress to do an adequate job of restructuring and updating and consolidating these legislative authorities in 4 months. The Health Subcommittee has for some time now been involved in an effort aimed at the recodification and restructuring of the whole of the Public Health Service Act. I am hopeful that that effort will enable us to consolidate several of the categorical authorities currently contained within the act. This project is one of the highest priority items before the Health Subcommittee. And I am going to do everything I can to assure that legislation in this regard is favorably reported from the committee to the Senate by next winter.

I believe it is necessary to extend all of these legislative authorities for 1 year. That is exactly what the bill does. It makes no substantive changes in the law at all. It adds no new money to the act. It simply extends the life of the act from June 30, 1973, to June 30. 1974. Mr. President, the specific programs extended by this bill are: Health services research and development, health statistics, public health training, migrant health, comprehensive health planning, Hill-Burton, allied health training, regional medical programs, medical libraries, and community mental health centers.

Mr. President, I believe this measure must pass if Congress is to have an opportunity to perform its constitutionally guaranteed right to legislate. I am delighted with the broad bipartisan support for this bill. This is not and should not be a partisan measure. I particularly want to compliment the help and assistance I have received from the distinguished chairman of our committee, Senator WILLIAMS, and from Senators JAVITS, SCHWEIKER, and DOMINICK, who have been more than willing to cooperate with me in this measure. I urge Senators to vote in favor of this essential health bill, when it is reported back to the Senate from the committee 2 weeks from now.

Mr. RIBICOFF. Mr. President, today I am joining with Senator KENNEDY and others in cosponsoring legislation to extend the major health laws for another year. Virtually all of the authority contained in the Public Health Service Act expires on June 30, 1973, and President Nixon's budget would allow these programs to die at that time.

The President says he will replace these programs with a health revenue-sharing system. However, no such proposal has been submitted to the Congress. Therefore, final passage cannot be achieved in time to avoid chaos in the health care field.

Many of us in Congress share the President's concern that there is duplication and lack of coordination in Federal health programs. I proposed the creation of a Department of Health earlier this year to aid the executive branch in bringing order to Federal health policy. But the President's health budget proposal abolishes several Federal health programs of great merit. Unless Congress acts quickly, vital programs dealing with community mental health centers, regional medical programs, medical libraries, allied and public health training, migrant health, comprehensive health planning, hospital renovation, health services research, and others will expire.

It will take time to reform those health care programs which need to be changed. It cannot be done in the 4 months remaining before these programs die. A year's extension will allow us to examine in some detail the merits of these health programs and the President's recommendations. The Hill-Burton hospital construction program would be phased out under the Nixon plan. The President says that there are a sufficient number of hospital beds now. While his contention is borne out by a General Accounting Office study I released last December showing underutilization of hospital beds and a lack of Federal coordination in assessing the need for new hospitals, Hill-Burton still serves a valuable role in providing funds for hospital renovation and ambulatory care centers. An estimated $12.7 billion needs to be spent on fixing up obsolete hospitals, nursing homes, and other health facilities, especially those overcrowded facilities located in urban centers. In 1971, only 4 percent of Hill-Burton grant money was going for new hospital construction. The majority of the funds went for renovation and development of ambulatory care facilities.

Another vital program which would expire under the Nixon health budget is the regional medical program. While its accomplishments have varied from State to State, the Connecticut regional medical program has had great success in coordinating health care activity in the State.

The Connecticut regional medical program—CRMP—has succeeded in developing linkages between almost all the community hospitals in the State with one of the two medical schools—Yale or the University of Connecticut. CRMP has instituted and funded a system of full-time chiefs of service in the hospitals and has developed a cadre of university faculty to assist the affiliated hospitals and full-time chiefs by bringing university expertise to the community. Because of this coordination, which took years of painstaking negotiation to achieve, Connecticut is now in a position to improve the quality of care, moderate health costs, coordinate health facility development, and increase the availability and accessibility of health care. It is tragic that such a program is going to be terminated at the end of June. This should not be allowed to happen.

Many other important programs will be able to continue if this legislation is acted upon promptly. Programs to provide scholarships and loans to nursing

students and fellowships to allow medical students and researchers to continue their work in pushing back the frontiers of medical knowledge are vitally important. The student loan programs allow many young people to receive training in various health fields who otherwise would be unable to further their education.

I am pleased that the Senate is taking prompt action on this legislation in order to provide continuity in these vital health programs. All of us agree that the Federal Government must spend its money wisely and efficiently. All health programs must be examined to make sure they are doing an effective job. Successful health care programs should be retained.

Mr. GRIFFIN. Mr. President, has the motion been agreed to?

The ACTING PRESIDENT pro tempore. It has.

Mr. GRIFFIN. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

FEDERAL AID HIGHWAY ACT OF 1973—COMMITTEE REPORT

Mr. BENTSEN. Mr. President, I report from the Committee on Public Works, S. 502, the Federal Aid Highway Act of 1973. I submit a report (No. 93–61) to accompany S. 502, together with individual views.

Mr. President, I ask unanimous consent that the privileges of the floor be extended to the following members of the staff during the consideration of S. 502, the Federal Aid Highway Act of 1973, including all votes, until action is completed on that bill:

Barry Meyer, Bailey Guard, John Yago, Philip Cummings, Kathy Cudlipp, Clark Norton, Hal Brayman, Jackee Schafer, Leon Billings, of the Committee on Public Works staff, Ron Katz of Sen. Bentsen's staff, and Vic Maerki of Sen. Stafford's staff.

Mr. WEICKER. Mr. President, reserving the right to object, might we not also include in that motion such staff members as may be designated by Senators KENNEDY, MUSKIE, BAKER, and WEICKER?

Mr. ROBERT C. BYRD. May I suggest that we let that go until such persons can be designated by name tomorrow.

Mr. WEICKER. Fine. That is good.

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

ORDER FOR CONSIDERATION OF FEDERAL HIGHWAY BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow at the conclusion of routine morning business the Chair lay before the Senate the Federal highway bill, which has just been reported.

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

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

RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, immediately following the remarks of the Senator from Oklahoma (Mr. BARTLETT) I be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators tomorrow there be a period for the transaction of routine morning business not to extend beyond the hour of 2 o'clock p.m., with statements therein limited to 3 minutes each.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order be modified to provide for statements not to exceed 5 minutes each tomorrow, rather than the usual 3 minutes.

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

ORDER FOR ALL COMMITTEES TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to have until midnight tonight to file reports.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock noon, after which the two leaders or their designees will be recognized under the standing order. Following recognition of the two leaders under the standing order, the distinguished junior Senator from Oklahoma (Mr. BARTLETT) will be recognized for not to exceed 15 minutes; after which the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 15 minutes; after which there will be a period for the transaction of routine morning business not to extend beyond 2 p.m., with statements therein limited to 5 minutes each.

Upon the completion of the transaction of routine morning business at 2 p.m. tomorrow, the Chair will lay before the Senate S. 502, the Federal Aid Highway Act of 1973. Yea-and-nay votes are expected.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 1:12 p.m., the Senate adjourned until tomorrow, Wednesday, March 14, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 13, 1973:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Charles C. Edwards, of Maryland, to be an Assistant Secretary of Health, Education, and Welfare, vice Merlin K. DuVal, Jr., resigned.

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service officers for promotion from class 1 to the class of Career Minister:

Robert O. Blake, of California.
Samuel De Palma, of Maryland.
Philip J. Farley, of Virginia.
William J. Handley, of Virginia.
Francis E. Meloy, Jr., of the District of Columbia.

For promotion from Foreign Service information officers of class 1 to the class of Career Minister for Information.

Alexander A. Klieforth, of California.
John E. Reinhardt, of Maryland.

For promotion from a Foreign Service officer of class 3 to class 2 and to be also a consular officer of the United States of America:

James A. May, of California.

Now a Foreign Service officer of class 3 and a secretary in the Diplomatic Service, to be also a consular officer of the United States of America:

John Eaves, Jr., of New York.

For reapportionment in the Foreign Service as a Foreign Service officer of class 3, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Seymour H. Glazer, of Virginia.

For appointment as Foreign Service officers of class 3, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Edward Joseph McHale, of New York.
Arthur B. Nixon III, of Texas.
Lewis Curtis Smith, of California.
Myna Beryl Wheat, of California.

For appointment as Foreign Service information officers of Class 3, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Dean Kelvin Brown, of New York.
Graham Kennedy French, of Arizona.
Robert O. Jones, of Maryland.
Arthur Winston Lewis, of Vermont.
William L. Minehart, of Virginia.
Walter Edward Wells, of Connecticut.

For reappointment in the Foreign Service as Foreign Service officers of class 4, consular

officers, and secretaries in the Diplomatic Service of the United States of America:

W. Wyatt Martin, of Tennessee.
J. Keith Powell, of Texas.
Gordon L. Streeb, of Minnesota.

For appointment as Foreign Service officers of class 4, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Merwin Carl Blust, of the District of Columbia.
Walter Leon Carter, of the District of Columbia.
Augustine J. Gorman, of Arizona.
Jerald E. Goslin, of Idaho.
Constantine P. Sioris, of the District of Columbia.
William W. Smith, of Pennsylvania.

For appointment as Foreign Service information officers of class 4, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Henry Michael Bennett, of Texas.
Joseph A. Bertot, of Illinois.
Ralph John Crawford, of Michigan.
Lawrence Donald Daks, of Illinois.
George F. Forner, of Washington.
Francis D. Gómez, of Washington.
George A. Miller, of Colorado.
Philip Winston Pillsbury, Jr., of Minnesota.
John Watkins Simmonds, Jr., of Pennsylvania.

For appointment as Foreign Service officers of class 5, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Richard Warren Elam, of California.
John Charles Garon, of Maryland.
Ovsanna Harpootian, of Rhode Island.
John Hargraves Lewis, of Pennsylvania.
Anthony Michael Santiano, of Rhode Island.
Phyllis S. F. Villegoureix-Ritaud, of Virginia.
Wayne W. S. Wong, of Nevada.

For promotion from Foreign Service officers of class 7 to class 6:

Michael T. Barry, of Texas.
Joyce A. Bednarski, of the District of Columbia.
R. Rand Beers, of Michigan.
Charles Henry Blum, of Virginia.
Geoffrey W. Chapman, of New Jersey.
Gene Burl Christy, of Texas.
James P. Covey, of New York.
J. Michael Davis, of Florida.
Wesley W. Egan, Jr., of North Carolina.
Richard W. Erdman, of New Jersey.
Patrick M. Folan, of California.
Richard M. Gibson, of California.
James L. Halmo, of Washington.
Donald K. Holm, of Minnesota.
David H. Kaeuper, of Michigan.
Douglas S. Kinney, of Florida.
Jacques Paul Klein, of Illinois.
C. Michael Konner, of New York.
Douglas Langan, of New Jersey.
Gary E. Lee, of Ohio.
Ronald Dean Lorton, of New York.
Michael M. Mahoney, of Massachusetts.
Gerald McCulloch, of Michigan.
Martin McLean, of New Jersey.
Phillip J. Metzler, of Kansas.
William C. Mims, of Georgia.
Carlos F. J. Moore, of Louisiana.
Kenneth N. Peltier, of Texas.
John U. Nix, of Alabama.
Kenneth W. Parent, of Illinois.
David C. Pugh, of Florida.
David P. Rawson, of Ohio.
Louis D. Sell, of Kentucky.
Andrew Michael Shields, of California.
LeRoy C. Simpkins, of California.
William C. Veale, of Virginia.
David C. Warheit, of California.
Eric R. Weaver, of the District of Columbia.
Thomas M. Widenhouse, of Illinois.
Sharon P. Wilkinson, of New York.
Harry E. Young, Jr., of Kansas.

For promotion from Foreign Service information officers of class 7 to class 6:

G. Whitney Azoy, of New Jersey.
Cesar D. Beltran, of California.
Bruce K. Byers, of Virginia.
Csaba T. Chikes, of Georgia.
Howard E. Daniel, of New Jersey.
Paula J. Durbin, of Hawaii.
David V. Gehle, of Ohio.
Katherine M. Griffin, of North Carolina.
Stevan M. Horning, of Indiana.
Victor L. Jackovich, of Iowa.
Joe B. Johnson, of Texas.
Alan M. King, of Tennessee.
Carol E. Ludwig, of Iowa.
Ray V. McGunigle, Jr., of Pennsylvania.
Stanley N. Schrager, of Illinois.
James D. Settle, of Virginia.
Michael G. Stevens, of Connecticut.
Arthur A. Vaughn, of Maryland.
Van S. Wunder III, of Ohio.

For appointment as Foreign Service officers of class 6, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Lucille Annigian, of Missouri.
Paul Carl Bofinger, of New York.
Franklin Deforest Hyde, of Missouri.
George B. Kettenhofen, of California.
Betty Louise Myles, of California.
Bernard Noland, of California.
M. Cordelia Sanborn, of Arizona.
Elayne Jeannette Urban, of Ohio.

For appointment as a Foreign Service information officer of class 6, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Joan Mary Gibbons, of Illinois.

For promotion from Foreign Service officers of class 8 to class 7:

Barbara K. Bodine, of California.
Kevin C. Brennan, of California.
Laurel M. Cooper, of California.
Michael Thomas Dixon, of New Jersey.
John M. Evans, of Virginia.
Joseph E. Hayes, of California.
Rex L. Himes, of Washington.
Wayne Stephen Leininger, of Florida.
Robert J. McSwain, of Florida.
William Howard Moore, of Virginia.
Richard A. Morford, of Indiana.
John J. Tkacik, Jr., of Virginia.

For promotion from a Foreign Service information officer of class 8 to class 7:

M. Franklin Keel, of Oklahoma.

For reappointment in the Foreign Service as a Foreign Service officer of class 7, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Ruth Willow Winstanley, of Indiana.

For appointment as Foreign Service Officers of class 7, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Michael J. Adams, of Pennsylvania.
Clarke William Allard, of New Hampshire.
Michael R. Arietti, of Connecticut.
Robert D. Austin, Jr., of Washington.
Manuel Barrera, of Massachusetts.
James E. Blanford, of Wyoming.
Joseph J. Borich, of South Dakota.
Ralph Lynn Braibanti, of North Carolina.
Harlow J. Carpenter, Jr., of California.
Geraldeen G. Chester, of California.
Robert William Clarke, of Arizona.
Gary Lee Everett, of Texas.
Daniel C. Gamber, of Florida.
Robert Lindsey Glass, of Massachusetts.
Bruce N. Gray, of California.
Andrew Grossman, of New York.
Steven Charles Haas, of Kansas.
William Henry Hall of Delaware.
Michael B. Harrington, of California.
Charles J. Harris, of Louisiana.
Frederick Loren Henneke, of Oklahoma.
Thomas L. Holladay, of Arizona.
John C. Holzman, of Hawaii.
William J. Hudson, of California.
Joel Gerard Imp, of Pennsylvania.
Dennis Coleman Jett, of New Mexico.
Alexandra Uteev Johnson, of California.
Samuel A. Keller, of California.
William Karl Krauss, of New Jersey.
Anthony B. Lamb, of Vermont.
Robert Anthony Lutkoski, of Pennsylvania.
John P. McGuinness, of Virginia.
Robert G. Melson, of Texas.
Edward Wayne Merry, of Oklahoma.
Michael W. Michalak, of the District of Columbia.
Paul T. Murphy, of Connecticut.
Thomas W. Ossola, of Colorado.
William Allen Pierce, of Georgia.
Marilyn Ross Povenmire, of Virginia.
Haywood Rankin, of North Carolina.
John R. Ratigan, of Colorado.
David Snyder Robins, of Washington.
Joseph A. Saloom III, of Virginia.
Joseph B. Schreiber, of Michigan.
Sarah-Ann Smith, of the District of Columbia.
David T. Toyryla, of Texas.
James Donald Walsh, of Pennsylvania.
Dean L. Welty, of Indiana.
Patricia Ann Wertman, of the District of Columbia.
Jeffrey S. White, of California.
Dan A. Wilson, of Texas.
Walter James Woolwine, of West Virginia.
Gerald A. Wunsch, of Indiana.

For appointment as Foreign Service information officers of class 7, consular officers, and secretaries in the Diplomatic Service of the United States of America:

David F. Barry, of New Jersey.
Beverly C. Champion, of the District of Columbia.
Wendell N. Harrison, of New York.
Robert Tadashi Hashimoto, of Hawaii.
J. Daniel Howard, of Tennessee.
Virginia M. L. Loo, of Hawaii.
Gerald C. Mattran, of Illinois.
Ronald J. Post, of Michigan.
Carmen C. Suro, of Maryland.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Jane Ellen Becker, of Wisconsin.
Jeffrey J. Buczacki, of Connecticut.
Charles Gilman Currier, of New York.
Kenneth Richard Hedstrom, of California.
Marie T. Huhtala, of California.
Patrick Francis Kennedy, of Illinois.
Alan P. Larson, of the District of Columbia.
Dana M. Marshall, of New York.
Janet L. Meek, of Texas.
Leigh A. Morse, of Minnesota.
Larry A. Nelsen, of Michigan.
Joseph T. Sikes, of Alabama.
Alice Kathleen Straub, of New Jersey.
Gregory Michael Suchan, of Ohio.

For appointment as Foreign Service information officers of class 8, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Charles Miller Crouch, of Connecticut.
Mary Lou Edmondson, of Colorado.
Robert B. Hall, of Oregon.
J. Brooks Spector, of Maryland.
E. Ashley Wills, of Georgia.

Foreign Service reserve officers to be consular officers of the United States of America:

Arthur J. Brett, of Maryland.
Luciano D'Angelo, of Colorado.
Paul Y. Dudak, of New Jersey.

Foreign Service reserve officers to be consular officers and secretaries in the Diplomatic Service of the United States of America:

Richard J. Allenbach, of California.
Richard L. Baltimore III, of New York.
Gerald P. Bunton, of Maryland.
Roger Campos, of Texas.
Glenn William Carey, of New Jersey.
Richard Thomas Carter, of the District of Columbia.

Raymond F. Denicourt, of Maryland.
David N. Edger, of Virginia.
Jack P. Gatewood, of Texas.
Raymond D. Grundeman, of California.
James D. Haase, of Virginia.
Robert L. Headley, Jr., of Virginia.
John Holderness, of New York.
James V. Ledesma, of Virginia.
Edna Jo Lee, of Texas.
Dale Ann Lewis, of Massachusetts.
Robert M. Linvill, of Ohio.
Joseph R. McDonald, of Virginia.
William A. Moffett III, of Virginia.
Clyde G. Nora, of New Jersey.
Marcia L. Norman, of Kentucky.
Thomas L. Norwood, Jr., of Florida.
Richard H. Ouderkirk, of Illinois.
Jeffrey Panitt, of Virginia.
William J. Randolph, of Maryland.
Alfred L. Ransome, of Colorado.
Donald K. Reynolds, of Washington.
Charles A. Schmitz, of Missouri.
George L. Summers, of California.
Jon R. Thomas, of Tennessee.
Eugene A. Trahan, Jr., of Louisiana.
David M. Zimmerman, Jr., of Maryland.

Foreign Service reserve officers to be secretaries in the Diplomatic Service of the United States of America:

John J. O'Donnell, of Pennsylvania.
David C. Packard, of New Hampshire.
John H. Stein, of Rhode Island.

Foreign Service staff officers to be consular officers of the United States of America.

Patricia Lee Bookhardt, of Texas.
Hanson R. Malpass, of New Jersey.
Henry A. Miller-Jones, Jr., of Colorado.
Ofelia C. Moreno, of Arizona.
Leslie J. Munroe, of California.
Bernice Ann Powell, of Michigan.
Eugene G. Vincent, of Maryland.
M. Patricia Wazer, of Connecticut.

IN THE AIR FORCE

The following officers to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. James V. Edmundson, xxxx FR (major general, Regular Air Force) U.S. Air Force.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Absher, Richard L., xxx-xx-xxxx.
Adams, James E., xxx-xx-xxxx.
Adamson, George W., xxx-xx-xxxx.
Aikman, Jim B., xxx-xx-xxxx.
Alch, Wayne F., xxx-xx-xxxx.
Alexander, John V., xxx-xx-xxxx.
Allan, James R., xxx-xx-xxxx.
Allebach, Victor L., xxx-xx-xxxx.
Allen, Leverne E., xxx-xx-xxxx.
Ambrose, Thomas J., xxx-xx-xxxx.
Ames, William I., Jr., xxx-xx-xxxx.
Anderson, Benjamin, xxx-xx-xxxx.
Anderson, Paul, xxx-xx-xxxx.
Anderson, Thomas L., xxx-xx-xxxx.
Anderson, Thurman E., xxx-xx-xxxx.
Andrews, Wilson P., xxx-xx-xxxx.
Angstadt, John P., xxx-xx-xxxx.
Arduna, Arthur A., xxx-xx-xxxx.
Arnhym, Rolfe G., xxx-xx-xxxx.
Artzberger, Ronald, xxx-xx-xxxx.
Ash, Philip L., Jr., xxx-xx-xxxx.
Ashworth, Servetus, xxx-xx-xxxx.
Atwood, Thomas W., xxx-xx-xxxx.
Auer, Charles H., xxx-xx-xxxx.
Austin, Kenneth S., xxx-xx-xxxx.
Ayers, Robert E., xxx-xx-xxxx.
Bacey, Algirdas S., xxx-xx-xxxx.
Bagby, Hershel W., xxx-xx-xxxx.
Bailey, Richard R., xxx-xx-xxxx.
Bailey, Rusian B., xxx-xx-xxxx.
Baird, Niven J., xxx-xx-xxxx.
Baker, John F., xxx-xx-xxxx.
Baker, Russell A., Jr., xxx-xx-xxxx.
Bal, Roscius I., xxx-xx-xxxx.
Ball, Duard D., xxx-xx-xxxx.
Bambery, James R., xxx-xx-xxxx.
Bamford, Charles F., xxx-xx-xxxx.
Bankit, Paul, xxx-xx-xxxx.
Banks, Douglas T., xxx-xx-xxxx.
Banze, William C., xxx-xx-xxxx.
Bardis, Michael J., xxx-xx-xxxx.
Barker, James M., xxx-xx-xxxx.
Barner, John V., xxx-xx-xxxx.
Barrett, Robert E., xxx-xx-xxxx.
Bartlett, Fred D., Jr., xxx-xx-xxxx.
Barton, Jack L., xxx-xx-xxxx.
Barton, Robert E., xxx-xx-xxxx.
Bauerband, Edward H., xxx-xx-xxxx.
Baughman, Larry J., xxx-xx-xxxx.
Bauman, William F., xxx-xx-xxxx.
Baynard, Richard A., xxx-xx-xxxx.
Beall, George F., xxx-xx-xxxx.
Beames, Clare F., III, xxx-xx-xxxx.
Bean, Calvin R., xxx-xx-xxxx.
Beardsley, William, xxx-xx-xxxx.
Beatty, Robert D., xxx-xx-xxxx.
Beckwith, Charlie A., xxx-xx-xxxx.
Bell, Robert S., xxx-xx-xxxx.
Bell, Wiley W., xxx-xx-xxxx.
Bell, William R., xxx-xx-xxxx.
Benedict, Frank C., xxx-xx-xxxx.
Benedict, Edward B., xxx-xx-xxxx.
Bente, James A., xxx-xx-xxxx.
Bertrand, Robert J., xxx-xx-xxxx.
Beshens, Gerald J., xxx-xx-xxxx.
Bickmore, Jesse O., xxx-xx-xxxx.
Biggerstaff, Allan, xxx-xx-xxxx.
Billington, Norton, xxx-xx-xxxx.
Bishop, Edward L., xxx-xx-xxxx.
Blackledge, David W., xxx-xx-xxxx.
Blalock, Charlie L., xxx-xx-xxxx.
Blanco Silviano J., xxx-xx-xxxx.
Blanton, Clay E., xxx-xx-xxxx.
Blastos, Constantin, xxx-xx-xxxx.
Blauvelt, Richard B., xxx-xx-xxxx.
Bleecker, James F., xxx-xx-xxxx.
Blottie, Donald L., xxx-xx-xxxx.
Blum, Robert W., xxx-xx-xxxx.
Bookman, Edmund B., xxx-xx-xxxx.
Boring, Landin F., xxx-xx-xxxx.
Born, Keith L., xxx-xx-xxxx.
Boucher, Leo Jr., xxx-xx-xxxx.
Boudinot Burton S., xxx-xx-xxxx.
Bourgeois, Randolph, xxx-xx-xxxx.
Bourne, Harold D., xxx-xx-xxxx.
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MEDICAL SERVICE CORPS

To be captain

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Klugman, Peter J., xxx-xx-xxxx
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ARMY MEDICAL SPECIALISTS CORPS

To be captain

Swift Roy A., xxx-xx-xxxx

ARMY NURSE CORPS

To be captain

Gruenewald, Armie K., xxx-xx-xxxx